

Division 31: Corruption and Crime Commission —

Mrs M.R. Marshall, Chair.

Mr J.R. Quigley, Attorney General.

Ms E. Johnson, Chief Executive.

Mr M. Squires, Chief Finance Officer.

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

The CHAIR: The estimates committees will be reported by Hansard. The daily proof *Hansard* will be available online as soon as possible within two business days. The chair will allow as many questions as possible. Questions and answers should be short and to the point. Consideration is restricted to items for which a vote of money is proposed in the consolidated account. Questions must relate to a page number, item or amount related to the current division, and members should preface their questions with these details. Some divisions are the responsibility of more than one minister. Ministers shall be examined only in relation to their portfolio responsibilities.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by noon Friday, 31 May 2024. If a minister suggests that a matter be put on notice, members should use the online questions on notice system to submit their questions.

I remind the committee that we are dealing with division 31 and then division 44. We have a hard finish time of 3.00 pm, by which time both divisions will need to be moved if they have not yet already. I give the call to the Leader of the Opposition.

Mr R.S. LOVE: I refer to the service areas for the commission. I can see on page 472 that there have been budget allocations in the past for assessing all allegations of serious misconduct received, investigating allegations of serious misconduct and investigating unexplained wealth referrals. The current year, 2023–24, is the first year that that has been a standalone provision area. Is this the first year that that work has been carried out or is it the first year that it has become a reported area on its own?

Mr J.R. QUIGLEY: It is not the first year that the work has been carried out, but it is the first year that it has been allocated and set aside as a separate thing since the opening of the new hearing room for unexplained wealth.

Mr R.S. LOVE: Is that related to the change in the structure of the organisation, with an assistant commissioner brought on so that there can be concurrent hearings? Is that what that is about?

Mr J.R. QUIGLEY: The member will recall that we amended the legislation to provide for a deputy. The process for appointing the deputy is the same as for appointing the commissioner. It is done by the nominating committee. It goes to the Premier and then the Joint Standing Committee on the Corruption and Crime Commission. That process is currently underway.

Mr R.S. LOVE: Has it occurred?

Mr J.R. QUIGLEY: It is in the process thereof. We do not yet have a final result, but it is in the process.

Mr R.S. LOVE: I refer to page 474 and unexplained wealth referrals. There is an efficiency indicator of 80 per cent, which is pretty much in line with the investigation of allegations of serious misconduct, which is just above it in the table. What does that represent? If a full investigation has occurred, would the Attorney General expect that the criminal property confiscation proceedings would be initiated within 12 months? How is that measured, because that would be a year ahead? What is the time lag between the process of finding unexplained wealth and the following confiscation process?

Mr J.R. QUIGLEY: Most of the unexplained wealth involves settlements. The target, not wanting to go to court and face public exposure, will settle.

Mr R.S. LOVE: If a finding is made that, for example, John Quigley has \$5 million in properties in New South Wales that we did not know about and he cannot explain how he got it, does the commission automatically start a process that leads to the confiscation of that property? Is there another step on the way?

Mr J.R. QUIGLEY: There is that capacity; it involves a confiscation hearing. However, most targets do not want that exposure and so when presented with the inexplicable, they usually yield.

Mr R.S. LOVE: For my understanding—because it is a novel concept, I think—which government body acts for the Crown in the negotiations? Is it the commission or is it another body?

Mr J.R. QUIGLEY: It is the commission, because those hearings are conducted in strictly confidential private hearings. The person is presented with that which is inexplicable and has the option of either denying and denying and denying or yielding and saying, “Well, you can have that.”

Mr R.S. LOVE: How can we be sure that the outcome is in the best interests of the state? For instance, if we go back to the example of the Attorney General and say that he has \$5 million and offers up \$500 000, and the commission says, “That’s easy. We’ll take that”, would that be an acceptable outcome? Who measures whether that is an acceptable outcome?

Mr J.R. QUIGLEY: Ultimately, the commission when a settlement is offered. The member has to understand that these people have not been convicted of any offence. They have not been convicted; therefore, it is a matter of identifying the unexplained wealth and seeing what is available for seizure.

Mr R.S. LOVE: Is the conduct of those negotiations subject to oversight by the Parliamentary Inspector of the Corruption and Crime Commission?

Mr J.R. QUIGLEY: The settlements are usually volunteered by the target, but if someone were to make a complaint, it would obviously be investigated.

Mr R.S. LOVE: My concern is not so much for the person who has the unexplained wealth. If there is unexplained wealth, clearly this mechanism has been put in place to discourage that. Supposing the person’s wealth has come about from perhaps selling methamphetamine at the train station, or whatever, surely the state would like to see all of that money come back. My concern is that there could be easy settlements rather than the best outcome for the state. That is also the most likely to deter people from future misconduct.

[2.10 pm]

Mr J.R. QUIGLEY: May I respond by saying that if it was by selling methamphetamine at the station, they would be charged with drug trafficking. The Corruption and Crime Commission would make a referral if that evidence came to light during the hearing. This is aimed at people against whom there might not be any evidence of criminality, but they have the trappings of wealth without being able to explain it. That is a unique circumstance for seizure. They have the trappings of wealth with no evidence that they have committed an offence, but they cannot explain a legitimate source for their wealth.

Mr R.S. LOVE: Whether or not they gained it by selling drugs at the train station or some other way does not matter. Unexplained wealth is the issue.

Mr J.R. QUIGLEY: Correct.

Mr R.S. LOVE: The holding of unexplained wealth in itself would lead to a situation in which there was a negotiation. Ultimately, though, what is it possible for the commission to do? If it was unsatisfied with the negotiations —

Mr J.R. QUIGLEY: It would instruct the State Solicitor’s Office to initiate seizure proceedings in the Supreme Court.

Mr R.S. LOVE: Does the commission or the commissioner themselves have the power to instruct the solicitor to undertake that?

Mr J.R. QUIGLEY: They can undertake it themselves or instruct the State Solicitor. The CCC has a legal department. It can either instruct the State Solicitor or do it itself. In one sense, that is the pathway, but it has never happened. A businessman does not want to go to court and be publicly exposed.

Mr R.S. LOVE: I will go to page 474 and the area of unexplained wealth referrals that we were talking about. I am looking at the full-time equivalents. There are 38 people who work in that area. The total number of people who appear to be working in the organisation has grown by only six or seven people. There has been a reduction in the number of full-time equivalents in service area 2 from 105 to 77 and from 32 to 29 in service area 1. Most of the staff investigating unexplained wealth referrals have simply been shifted from another area of the commission. Does that then leave the commission in a situation in which service areas 1 and 2 will fall behind in the provision of assessments and investigations of allegations of serious misconduct?

Mr J.R. QUIGLEY: No. There was up-front funding for this particular service area. Before it became a discrete service area, the commission was doing it from within its own resources. The \$9 million of additional recurrent appropriation approved by the Expenditure Review Committee has now been reflected in the budget. A four-year budget has been established, with \$12 million across the forward estimates. This funds accommodation, personnel, information and physical assets. The government approved recurrent funding for the commission’s unexplained wealth function, commencing in 2023–24. The funding supports 16 additional FTEs across the commission, the majority of which are within the commission’s operating and legal services directorate.

The tight employment market presents challenges, particularly in acquiring appropriately experienced forensic accountants. However, the majority of roles are currently filled and the commissioner has recently recruited a new

director of investigations, who has been tasked with reviewing the internal government structure to ensure that the unexplained wealth function is performing at its optimum.

Mr R.S. LOVE: Those figures do not actually equate to what is in the budget document. The number of people being recruited is a different figure from what is here. I am not sure that has happened yet.

Mr J.R. QUIGLEY: That is because some of them were internally funded and were allocated to the unexplained wealth function.

Mr R.S. LOVE: Were they involved in the assessing of allegations of serious misconduct or in the investigations thereof? Were they in a back room doing something else?

Mr J.R. QUIGLEY: I will just let the chief executive officer explain it.

Ms E. Johnson: We obtained funding for the 16 FTEs. Those positions are largely filled. Is the member referring to the differential in the figure of 38 in the budget paper? The chief finance officer can jump in if I get this incorrect. The total number of our FTE is divided amongst the three services. It obviously covers our overheads as well. The reduction from service 2 is due to the fact that those overheads now also have to be spread across the third service that we were not previously attributing FTE to before. As the member can see, it was not applicable in the previous financial year.

Mr R.S. LOVE: According to the budget documents, in 2022–23, there were 32 FTEs in service area 1, with 105 in service area 2, which is 137 FTEs. In this current year, with a full complement, there will be 77, 38 and 29, for a total of 144 FTEs. That is a lift of only seven, not 16.

Ms E. Johnson: That is due to vacancies in the other areas of the commission, not against the unexplained wealth function.

Ms C.M. TONKIN: The Attorney General has talked about the resourcing of the functions. I refer to page 474, which is about the investigation of unexplained wealth referrals. Can the Attorney General please provide an update on how the Corruption and Crime Commission has performed on the unexplained wealth function?

Mr J.R. QUIGLEY: The unexplained wealth function is to remove the financial incentive to criminal activity, particularly organised crime, to disrupt and deter it and to reduce harm in the community. For the first time, a four-year budget has been established, with \$12 million in total across the forward estimates, which we have already discussed. As Ms Johnson just explained, that will fund accommodation, personnel, information and physical assets.

The government approved recurrent funding for the commission's unexplained wealth function commencing in the 2023–24 financial year. As we have said, the funding supports 16 FTEs across the commission, the majority of which are within the commission's operations and legal services directorate. The tight employment market has presented serious challenges, especially in acquiring appropriately experienced forensic accountants. However, the majority of roles are currently filled and the commissioner has recently recruited a new director of investigations, who has been tasked with reviewing the internal government structure to ensure that the unexplained wealth function is performing at its optimum.

The commissioner has noted an increase in the sophistication of target tradecraft and the complexity of investigations in this area, particularly of those suspected of being involved in organised crime. They have developed their systems. This has seen the investigations and legal teams work closely to review existing case holdings and refocus and develop new investigation strategies. As a consequence of this, it is likely that a number of lengthy, less fruitful investigations will come to a close this financial year—some of the low-hanging fruit has already been picked.

During the financial year, the commission obtained an unexplained wealth declaration of, for example, \$450 000 against Mr Ronald Whyte, the brother of Paul Whyte. That was unexplained wealth. Substantial commission resourcing has continued to be dedicated to matters linked to the offending of Mr Paul Whyte. The commission currently has a gross figure of approximately \$3.6 million in frozen assets.

[2.20 pm]

Ms L. METTAM: Apologies if I missed it, but how many unexplained wealth referrals were there in 2023–24?

Mr J.R. QUIGLEY: We have those statistics, but I would have to take that on notice.

Ms L. METTAM: Or as supplementary information?

Mr J.R. QUIGLEY: Does the member want that on notice?

Ms L. METTAM: Could we have, as supplementary information, the number of referrals and the number that were substantiated or not substantiated for the last three years?

Mr J.R. QUIGLEY: Yes.

The CHAIR: Attorney General, are you happy to provide that information?

Mr J.R. QUIGLEY: We are happy to provide, for the last three years, the number of referrals —

Ms L. METTAM: And the numbers that were substantiated or discontinued.

Mr J.R. QUIGLEY: What the member is really looking for is how much was seized.

Ms L. METTAM: Yes.

Mr J.R. QUIGLEY: It will include how much was seized over those years.

[*Supplementary Information No A27.*]

Mr R.S. LOVE: I refer to the outcomes and key efficiency indicators at the very top of page 473 of budget paper No 2. The number of allegations received in 2022–23 was 5 895, yet the budgeted figure for 2023–24 is 3 000 and the estimated actual is 3 000. Can the Attorney General explain the variance between what was experienced in 2022–23 and what was estimated and budgeted for in 2023–24 and beyond?

Mr J.R. QUIGLEY: I will defer to Ms Johnson.

Ms E. Johnson: In this financial year, the measurement of that indicator was amended. Previously, the commission would receive a notification or report and then draw a number of allegations from that. What we have done in the last financial year is to align and simplify that to match the definition in our legislation, which defines allegations as a notification, report, referral or own proposition. This means, necessarily, that there are fewer because we are counting the number that come in the door rather than what we subsequently extract. We think that is a more objective measure of the reports that we are receiving. That explains the reduction.

Mr R.S. LOVE: Is any reduction in workload expected in the year?

Mr J.R. QUIGLEY: The answer is no.

Mr R.S. LOVE: If that is the case and there is no reduction, how will the Corruption and Crime Commission manage to handle that, given that the number of staff looking at those original assessments and then carrying through any that are deemed to be worth investigating has fallen from 105 plus 32 to 77 plus 29? There has been a substantial fall in the number of people operating in those two areas.

Mr J.R. QUIGLEY: Through Ms Johnson.

Ms E. Johnson: There has been no real reduction in the number of staff working in those areas. I think I sat here and described the same situation last year. We continue to experience significant vacancies in our assessment area. That is the area in which we struggle to both attract and retain staff. It is a challenging area to work in. The work has continued to grow in complexity. The time taken to complete assessments has extended due to body-worn camera footage and those sorts of things. We continue to look for ways to recruit people. We have rigorous security vetting processes. We are looking at ways to speed them up, because often when we take people through a process, by the time we have finished our vetting they have accepted another role. We also have the limit in the legislation about staff being appointed for five years only—all staff. As the member can imagine, that presents a challenge to people leaving either the private sector or the commonwealth government to join our agency. We are turning our mind to whether that could be something we seek amendment to in the review of our act. There are a number of different factors and levers that we are trying to address, but it is quite a complicated issue.

Mr R.S. LOVE: We have in the *Budget statements* the number of people who made allegations or the number of allegations received and we can extrapolate from that the number investigated as serious misconduct. Are records kept; and, if so, could the Attorney General provide the number of people who, instead of being pushed into the serious misconduct path, were referred to the Public Sector Commission for inquiry under a more minor misconduct path?

Mr J.R. QUIGLEY: I would have to refer that one to Ms Johnson.

Mr R.S. LOVE: If it is in the annual report, that is fine.

Ms E. Johnson: I do not know that it is, member, but we could look at that as a supplementary question and provide it if the Attorney General agrees.

The CHAIR: Does the Attorney General agree to provide supplementary information?

Mr J.R. QUIGLEY: Yes. The supplementary information to be provided will be on how many came through the door with an allegation and, of those, how many were referred on to the Public Sector Commission.

[*Supplementary Information No A28.*]

Mr R.S. LOVE: The Attorney General has referred in some of the answers to an increase in funds around unexplained wealth, yet when we look at the full picture of the three services together, we see on page 472 that the total cost

was estimated to be \$32.595 million last year, it jumps up to \$34.227 million this year, but then there seems to be a decline in 2025–26. Can we get an understanding of why there is a decline—it is not a huge cliff—in the following year? Is there some cost to setting up the service? What is the reason for that?

Mr J.R. QUIGLEY: Is the Leader of the Opposition talking about the total cost of services?

Mr R.S. LOVE: Yes, for those three service areas.

Mr J.R. QUIGLEY: I wonder whether the chief financial officer could take that question, please.

[2.30 pm]

Mr M. Squires: In regard to the next year, 2024–25, we have additional funding through the streamlined budget process incentive funding of \$844 000 that uplifts our total cost of service. In the next year, the first out year in 2025–26, that funding has been removed subject to a further government decision and a continuance of that incentive funding, which contributes to that small decline.

Mr R.S. LOVE: I have a further question about what happens to allegations. The other question I forgot to ask is: of the allegations that are then investigated, is a record kept of what happens after the investigation—how many are dismissed and how many end up with a formal warning, sanction or some other action?

Mr J.R. QUIGLEY: This was reported on in the Joint Standing Committee on the Corruption and Crime Commission report as tabled in this chamber. I do not have it with me at the moment.

Mr R.S. LOVE: I am not part of that joint standing committee.

Mr J.R. QUIGLEY: But the report was tabled and is available to the member.

Mr R.S. LOVE: Probably my mistake for not reading it.

Ms L. METTAM: I refer to the relationship to government goals outlined on page 472 of the *Budget statements*. How many public authorities have put forth an allegation against an employee over the last financial year?

Mr J.R. QUIGLEY: How many public authorities have reported on their own employees?

Ms L. METTAM: Yes, have put forth an allegation.

Mr J.R. QUIGLEY: Does the member mean an allegation that has passed assessment for investigation or just any allegation?

Ms L. METTAM: Let us have both; can we have both? How many allegations have been made against individuals and public authorities?

Mr J.R. QUIGLEY: We could not tell the member that this afternoon. We do not have the breakdown by agency. The estimated actual for 2023–24 is 3 000, but we do not have it broken down by agency.

Ms L. METTAM: Just to clarify, are they all allegations and are not substantiated?

Mr J.R. QUIGLEY: That is correct. I do not have them broken down by agency, member.

Mr R.S. LOVE: I refer to page 472 of the *Budget statements* and under the heading “Relationship to Government Goals” is the government goal of safe, strong and fair communities and the desired outcome that I integrity of the public sector continuously improves and the incidence of misconduct is reduced. In regard to that desired outcome, I refer to an article by Hamish Hastie published on WAtoday in March this year stating that the WA Corruption and Crime Commission boss who coordinated important networks resources had a three-year intimate relationship with a source. That does not strike me as being such a high standard of integrity. What measures were taken in the commission following the release of the report to ensure that its own processes were, shall we say, beyond reproach?

Mr J.R. QUIGLEY: Several processes were reformed following that report, particularly those pertaining to officers who have personal contacts with targets, but I would rather that the chief executive officer, Ms Johnson, enumerate those, because although I know of several, I might miss one out.

Ms E. Johnson: Following the release of that report, as the member recalls, one recommendation was that the Corruption and Crime Commission undertake an internal review. The review is currently underway and it covers a range of issues, including governance, reporting mechanisms, leadership, culture and capability management. The human source unit in which this work was undertaken ceased its operations when this conduct became apparent in early 2023, and that area has not been conducting human source activities. We await the outcomes of the review, which is expected, and we are due to report to the joint standing committee by the end of September. We have made other changes internally to our governance structures and have established a specific team charged with looking at our governance risk management structure and applying more resources to it, as we await the outcome of the review. Mechanisms have already been put in place to stop that work and increase the oversight mechanisms over some of our other more sensitive operational capabilities.

Extract from *Hansard*

[ASSEMBLY ESTIMATES COMMITTEE A — Thursday, 23 May 2024]

p358b-363a

Mr Shane Love; Mr John Quigley; Ms Christine Tonkin; Ms Libby Mettam

Mr R.S. LOVE: When the review is complete, who will it be made known to? Will it be made known to the Attorney General or the parliamentary inspector, or will it just be internalised within the CCC?

Mr J.R. QUIGLEY: It will be made known to the joint standing committee, so there will be parliamentary oversight of the recommendations of that report.

Mr R.S. LOVE: Would it then be up to the committee whether the review is released in full or only parts of it?

Mr J.R. QUIGLEY: Correct. It may contain things to do with operational procedures and matters that we would not want widely published.

Mr R.S. LOVE: When does the Attorney General anticipate that the review will be made available?

Mr J.R. QUIGLEY: The committee has requested that it be tabled by 30 September this year. The committee will report to Parliament after it has reviewed it.

Mr R.S. LOVE: Will the process be that the committee will report to Parliament and then the Attorney General will make a response—or what will happen?

Mr J.R. QUIGLEY: That is usually what happens. We have to put a response to tabled reports.

Mr R.S. LOVE: It is due in September, so would that give the Attorney General enough time to respond before the final sitting of Parliament?

Mr J.R. QUIGLEY: As long as the committee gets on with this report.

The appropriation was recommended.