

Division 28: State Solicitor's Office —

Ms M.M. Quirk, Chair.

Mr J.R. Quigley, Attorney General.

Mr G. Hill, State Solicitor.

Mr W. Meier, Chief Finance Officer.

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

The CHAIR: The estimates committees will be reported by Hansard and the daily proof will be available online as soon as possible within two business days. I 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 those details. Some divisions are the responsibility of more than one minister. Ministers shall be examined only in relation to their portfolio responsibilities.

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

I give the call to the member for Vasse.

Ms L. METTAM: I refer to page 132.

The CHAIR: Is it in budget paper No 3, member?

Ms L. METTAM: Yes, it is in budget paper No 3.

Mr J.R. QUIGLEY: We are on division 28, part 7.

Ms L. METTAM: Yes. I refer to demand for legal services on page 132 of budget paper No 3. It notes that \$28.6 million has been allocated to meet ongoing demand for legal services and manage high-profile court proceedings and class actions on behalf of the state for legal practitioners and support staff over the forward estimates period. Can the Attorney General indicate what the high-profile court proceedings and class actions are and their associated costs?

Mr J.R. QUIGLEY: I will defer to the State Solicitor.

Mr G. Hill: Thank you, Attorney General. There are a number of major litigations on the horizon that are coming our way. Quite a number of native title compensation claims are out there and a class action concerning children in care. There are also class actions concerning the fines and infringement legislation and its application over time. There is a racial discrimination class action concerning housing. Of course, there are historical sexual abuse cases against the state that are out there. A number of matters are in the courts and about to come to fruition and be litigated. The cost of those will depend on how far they go and when they settle, but that is the answer to it.

Of course, the \$28 million that the member referred to in baseline funding does not represent an increase in funding for us at all. We have fixed-term funding for a whole lot of projects that comes to an end after a period. That money will transition that fixed-term funding to permanent ongoing funding. It does not represent an increase in resources to the State Solicitor's Office, but it does have a profound effect on us in that it is permanent rather than fixed-term funding.

[5.50 pm]

Ms L. METTAM: I would like to better understand the quantum of the class action for children in care. How many cases are there? How much are we talking about, and how does that compare with previous years?

Mr J.R. QUIGLEY: A lot of these class actions have recently commenced or threaten to commence. When the member talks about previous years, it is not really relevant, with the plaintiffs now bringing their actions this year. We do not control that.

Ms L. METTAM: Regarding the costs that the Attorney General is talking about that are associated with the class actions, how many are we talking about and how much of those funds?

Mr J.R. QUIGLEY: I will ask the State Solicitor to answer that.

Mr G. Hill: Two class actions are on foot. The first was filed on 9 February 2023 and the second on 21 March 2023. They are in the Australian Human Rights Commission at the moment. The way it works is that these complaints are in the Australian Human Rights Commission and if they cannot be resolved there, the AHRC will terminate the complaint. The complainants will then have 60 days to start legal action in the Federal Court. At the moment, they are still in the AHRC with negotiations ongoing, but it is very likely that they will be terminated soon and that litigation will start in the Federal Court.

These complaints are both class actions. They allege racial discrimination by the Department of Communities between 1992 and 2024 concerning various conduct including the decision to remove Aboriginal children from their families and place them in care. Those two class actions will be at an embryo stage at the moment, but will soon be in the Federal Court.

Ms L. METTAM: The other case was about racial discrimination associated with housing; is that right? Can the Attorney General provide some further clarification around that case?

Mr J.R. QUIGLEY: To the State Solicitor, please.

Mr G. Hill: Thank you. Yes, that complaint alleges that the Housing Authority engaged in unlawful racial discrimination under the commonwealth Racial Discrimination Act. It concerns the termination of tenancies at disproportionately higher rates for Aboriginal tenants compared with non-Aboriginal tenants. It alleges the refusal of applications for public housing assistance in relation to Aboriginal applicants at disproportionately higher rates, and claims that the design of support services are not meeting the needs of Aboriginal public housing tenants.

The Department of Communities is the client in that matter. The parties had a conciliation conference late last year and negotiations to settle the matter are ongoing. If the matter is unable to be settled, again, it is likely that the Australian Human Rights Commission will terminate the complaint on the grounds that there is no reasonable prospect of resolution. In circumstances in which the complaint is terminated, the complainant will have 60 days to take a class action in the Federal Court. That is where it is up to at the moment. We are not instructed about the size of the class that it will concern, but it is likely to run into hundreds if not thousands of people.

Ms L. METTAM: In terms of the cost to the state and the \$28.8 million, how much are we looking at? Is the racial discrimination matter relating to housing one class action?

Mr G. Hill: Yes. It was brought by a complainant, but it is a class action and others will join the class later in the proceeding. It is an indeterminant amount.

Ms L. METTAM: This may be outside what the Attorney General is able to answer, but is that class action already having implications on housing policy —

The CHAIR: I think that is definitely beyond scope.

Ms L. METTAM: I just thought I would try!

The appropriation was recommended.