

Division 10: Office of the Information Commissioner, \$2 145 000 —

Ms J.M. Freeman, Chair.

Mr J.R. Quigley, Attorney General.

Ms C. Fletcher, Acting Information Commissioner.

Mrs M. Fitzgerald, Executive Officer.

Mr J. Lee, Principal Policy Adviser.

Mr D. Emerson, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The minister may agree to provide supplementary information to the committee rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by Friday, 30 October 2020. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

The member for Hillarys.

Mr P.A. KATSAMBANIS: My first question refers to page 132, under "Outcomes and Key Effectiveness Indicators". The last of the indicators is "Applications for external review resolved by conciliation". I note that the actual number delivered in the past year was lower than the budgeted amount as a percentage, and significantly lower than the actual amount in 2018–19. Can we have an indication of why fewer applications for external review were resolved by conciliation? Perhaps as a part B, if they are not resolved by conciliation, what is the next step?

Mr J.R. QUIGLEY: I defer to the commissioner.

Ms C. Fletcher: Yes, thank you for the question. The member refers to the 2019–20 actual figure for the rate of external review matters resolved by conciliation being at 64 per cent. The budgeted target was 70 per cent, and compares with the actual result for 2018–19, which was 82 per cent. The two differentials that I will attempt to explain are as follows. It is acknowledged that the actual result for 2019–20, 64 per cent, is below the budget target of 70 per cent, and is to some extent significantly down from the actual result of 2018–19, which was, in our view, a very good achievement for that period.

I do not think the result can be explained in precise terms or in any scientific way, but perhaps in this way. In our last hearing in front of another committee I attempted to explain that we were concerned in previous periods about the issue of timeliness, so we attempted to go about things a little differently in the last reporting period. That brought about some changes in process, and one of those was to resolve matters in a different way, such that after we had issued a preliminary review where we invite parties to respond to the commissioner's review with further submissions, in some cases we were able to resolve matters where nothing of substance came back to the commissioner that would have any impact on that preliminary review. We resolved matters by making the decision that the matter was now lacking in substance. We have increased our usage of those significantly in the last 12 months, which impacts on the conciliation rate to an extent. That is one factor that has impacted on that. We have significantly increased that way of resolving matters, and I think it has made an impact.

There is an issue in terms of some older matters that are yet to be finalised and which, I think, may well have impacted. We have some outstanding matters that have grown in age, and I think the inability to resolve some of those matters of complexity, that have grown old, has also contributed to the drop in the conciliation rate. Those, for me, are perhaps the two standout factors.

Mr P.A. KATSAMBANIS: If matters are not resolved by conciliation, what is the next step?

Ms C. Fletcher: Sorry, I did not answer the second part of the member's question. The next step is, of course, to have a decision of the commissioner.

Mr P.A. KATSAMBANIS: Just for completeness, I recognise that sometimes when dealing with very small caseloads, one outlier case can throw out the percentages. What sort of numbers are we talking about each year in this area? Are we talking about hundreds or dozens of applications?

Ms C. Fletcher: The annual report reveals that in the last period we are talking about, the 2019–20 actual, we received 166 new matters.

Mr P.J. RUNDLE: I refer to page 133 and the income section of the table under the heading “Advice and Awareness”. Income under 2019–20 actual is listed as \$30 000, which obviously relates to the FOI in WA conference. Is that an annual event, and to whom is it open? Is it open only to agency staff or is it public?

[2.50 pm]

Ms C. Fletcher: The FOI conference was our second such conference. The first was held two years earlier in 2017, and the second was two years later in 2019. We do not yet have a particular date in mind for another one. It is very unlikely that the office can sustain doing one every year as it is a big drain on resources. It is a worthwhile drain on resources, I might add that comment, but not something that we could do annually. We may well do another one in two or three years; we have not planned an exact date for that yet. In terms of who it is open to, it is predominantly aimed at agencies to educate those who are responsible for FOI work. However, it is not limited to only those types of people attending. We also open it to others who are interested in FOI. We have had some people attend who have an academic interest in FOI, but, predominantly, it is largely agency members. It is really an educative opportunity for those in the public sector who work with FOI.

Mr P.J. RUNDLE: Is it open to a member of the public or an electorate officer to come along—that is no problem? Also, how many people, roughly, attend the conference?

Ms C. Fletcher: I can answer the last question more accurately than I can the first. I think around 330 people attended, which is not a precise answer, but certainly well over 300 people attended. As to the issue of electorate officers or members of the public, I may have to take that question on notice, because my feeling is—I do not want to mislead anybody—that although we entertained those sorts of people, I am not absolutely certain whether we had any or whether we closed it to members of the public. I would have to take that question on notice if the member wanted an answer to that.

The CHAIR: Is the minister happy to take that as supplementary information?

Mr J.R. QUIGLEY: Yes.

The CHAIR: Through the minister, can the commissioner outline for the *Hansard* exactly what he will be providing?

Ms C. Fletcher: The Office of the Information Commissioner is to provide information about whether members of the public or others, such as electorate officers, were able to attend or did attend the second FOI in WA Conference in 2019.

[*Supplementary Information No A28.*]

Mr P.A. KATSAMBANIS: I refer to page 133 of budget paper No 2. The first item under the heading “Services and Key Efficiency Indicators” is “Resolution of Complaints”. I note that for 2019–20, the average cost per complaint and external review finalised was higher than the budgeted amount. Is there an explanation for why the cost was higher than the budgeted amount, and what impacted on that outcome?

Ms C. Fletcher: The actual 2019–20 was \$7 759 per resolution of complaint unit, if I can call it that—the term we tend to use within the organisation is “external review”—versus the budgeted amount of \$7 206 per unit, the discrepancy being in the region of \$500. To be perfectly frank, the exact reason for that is not something I am able to explain, except that the underlying calculations for the budget are based on the FTE that we have for that year. Addressing the 2019–20 budget figure, it is based on the FTE we have for that year, and the previous year’s unit cost. If in the actual period there is a variation in the FTE, that may well impact upon that final cost. In the 2019–20 period, we had a variation in FTE. The member will see in the table that for the line “Employees (Full-Time Equivalents)”, the budget number was nine and the actual number was eight. It may well be that that accounts for that higher cost; that may well be a factor. I hope I have indicated that correctly. A more precise explanation for that differential may be something that I need to take on notice. I have my chief financial officer here, who happens to be my executive officer, so I do not know whether the member would like me to seek further information.

Ms M. Fitzgerald: The budget targets are estimated based on the number of units that are estimated to be finalised in the following year based on FTE count. There is a variance if the FTEs change or the number of matters we actually get change. That will be why there is a difference, because we had an FTE reduction in that year, and the number of matters that were received were not quite what we had estimated.

Mr P.A. KATSAMBANIS: I think that answers it; we do not need to take any further supplementary information. Based on the variables and the parameters that have been described, the budget allocation for 2020–21 indicates

that the average cost per complaint and external review finalised will drop quite significantly. Is that an indication that the commissioner is expecting more applications in this current financial year compared with the previous financial year, or is there another explanation for that drop in the average cost, given that the total cost of service is going up and the average cost is going down? One would presuppose that there will be far more cases. Am I reading that correctly?

Ms C. Fletcher: I think the explanation lies almost in the opposite to what we just explained about the figures for 2019–20. Based upon the actual figures for this year, we have worked out a unit cost for resolution of complaints and we have predicted that there will in fact be an increase in the number of external review matters. I think we said that this year there were 166 new matters, and we are anticipating over 200 if the trend continues. That figure incorporates a productivity dividend, or the number of matters each was able to resolve or finalise, I should say, in this previous period. I think the efficiency that appears to be projected for 2020–21 is due also to the fact that we have recently taken on two new external review staff, and their contribution to getting through that projected workload will achieve some efficiencies for us. I think that is the answer, unless there is anything further my chief financial officer would like to add.

Mr P.A. KATSAMBANIS: I am comfortable with that explanation.

The appropriation was recommended.

[3.00 pm]