Division 8: Commissioner for Equal Opportunity, $3 185 000 —

Ms J.M. Freeman, Chair.

Mr J.R. Quigley, Attorney General.

Dr J.C. Byrne, Commissioner for Equal Opportunity.

Mr J. Lee, Principal Policy Adviser.

[Witness introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. The Chair will 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. Gesundheit, minister.

I give the call to the member for Hillarys.

Mr P.A. KATSAMBANIS: Thank you, Through the Attorney General, I welcome the Commissioner for Equal Opportunity. I do not have a lot questions but I have a few. My first question relates to page 117 of budget paper No 2 and the first issue under the heading "Significant Issues Impacting the Agency". In October 2018, the Attorney General announced a review of the Equal Opportunity Act to be conducted by the Law Reform Commission of Western Australia. This is the first time the act has been reviewed for at least a decade. I understand that that review commenced at some stage in 2019. Is the Attorney General or the commissioner able to provide an explanation on the progress of this review and when it is anticipated the review will be completed?

Mr J.R. QUIGLEY: Although the initial instructions to the Law Reform Commission about this matter were made in early 2019, as the member pointed out, a number of factors have resulted in delays to this review and its associated report. In light of the Australian Law Reform Commission's review of religious exemptions and equal opportunity legislation, it was necessary to delay Western Australia's review of equal opportunity legislation to ensure that any findings made by the commission were not supplanted by commonwealth developments on this subject, bearing in mind also the constitutional constrictions of section 109 to deal with inconsistent laws with the commonwealth. In addition, a further delay has occurred this year due to the COVID-19 pandemic and the need for a range of matters related to the equal opportunity legislation, not just those associated with religious exemptions, to be considered as part of commission's review. Also, the chair of the Law Reform Commission, Dr David Cox, finished his term only a couple of months ago and a new chairperson has been appointed in the person of retired Supreme Court Justice Hon Lindy Jenkins, who will be leading this review. Her appointment went through Executive Council only a month ago. I am advised that the commission anticipates that the discussion paper will be released by the end of March 2021 for public comment.

Mr P.A. KATSAMBANIS: A discussion paper will be released in March 2021. After the discussion paper has been released and consultation has occurred, is there an anticipated date on which a final report is likely to be completed?

Mr J.R. QUIGLEY: I have not discussed that with the incoming chairperson. If the member knows the reputation of Justice Jenkins, she is a very hard worker and very competent, and this is one of her first jobs. I think that she would be onto the job pretty quick.

Mr P.A. KATSAMBANIS: We will wait and see on that.

Mr P.J. RUNDLE: Does the minister have an idea of the cost of the review to the state government?

Mr J.R. QUIGLEY: No, I do not. Due to the reorganisation of the Law Reform Commission under the previous government, that question is best saved for the division on the Department of Justice. Under the previous government, the administrative supports of the Law Reform Commission were reorganised into the Department of Justice. If the member asks that question during the division on the Department of Justice, I think he will get a more helpful response.

Mr P.J. RUNDLE: I refer to page 117 and significant issues impacting the agency. The second point notes that the complaints management system will come online during this financial year. Has the changeover from the previous obsolete system been completed?

Mr J.R. QUIGLEY: I invite the commissioner to respond to that question.

Dr J.C. Byrne: Thank you. First, I want to mention that I am profoundly deaf, which is why I have transcript in front of me. I thank the Chair for the accommodations made for my disability. I greatly appreciate that. The complaints management system has been delayed. We went to tender, and the prices were far too high. We are now talking with the Department of Justice about using its integrated court management system with appropriate modifications for our simpler requirements than those for courts. That is now underway and a project officer will be appointed this financial year.

Mr P.J. RUNDLE: Have any funds been allocated for staff training to ensure that they are fully conversant with the new system?

Dr J.C. Byrne: Yes, we have a budget of $180 000, which will include the cost of training and modifications.

[2.10 pm]

Mr P.A. KATSAMBANIS: I refer to outcomes and key effectiveness indicators on page 118 of the *Budget Statements*. One of the outcomes is the percentage of complaints finalised within six months and 12 months. I note that the percentage of matters finalised within six months is significantly below the budgeted target, and the percentage finalised within 12 months is much higher than the budgeted target. Has anything changed, either in the case load or in the way cases are managed in the commission, that leads to things taking longer?

Dr J.C. Byrne: There are two factors to this. During the COVID restrictions, there was a period when we had to work out arrangements to work from home, and that required reorganising the way we dealt with the administration of complaints. It is now more online. That caused a slight delay, but not all the delay—a slight delay. I would say, though, that reorganising the way complaints were done has improved our productivity now that we are back in the office—one of the small benefits of COVID. The other factor is that every year there has been a steady increase in the complexity of complaints, with people being slower to respond. That complexity means that the respondent and the complainant often take longer to respond to requests. Often solicitors are involved, and often there are a number of exchanges so that instead of just one exchange from the respondent and one from the complainant, we are now doing a fair bit of back and forth, and that is causing it to take longer. I take the view that the increased time to deal with complex complaints is not really an issue in itself, so long as both the complainant and the respondent are engaging and continuing to move forward towards conciliation. Nonetheless, the complexity of complaints is the main reason for the increased time to resolve them.

Mr P.A. KATSAMBANIS: Have the resources allocated to the commission proved to be sufficient to deal with this increased complexity in the case load?

Dr J.C. Byrne: Yes. We are not seeking additional resources. We are improving productivity where we can, in a different way—by doing things electronically, for example. The conciliation people are certainly flat out, but I do not think it has been a factor in the increased time.

Mr P.A. KATSAMBANIS: We have traversed this area before. I am always interested in changes in the nature of the case load. Have there been any marked increases or decreases in certain types of cases compared with other types of cases? For instance, are we seeing any more bullying or religious discrimination claims? Has there been any change in that area?

Dr J.C. Byrne: I would say that there are fluctuations from year to year, but I cannot detect a trend about the number of complaints or a particular area. I should note that bullying of itself is not a ground under the act. If that is what it is about, a person should go to the Fair Work Commission. If bullying is part of another complaint such as sexual harassment, it can be considered. We have a very low number of complaints of religious discrimination, probably only one or two per cent—four or five complaints—a year. There was certainly an uptick during the plebiscite, when there was a lot of public debate and focus, but it has dropped back again. It is rare to get a complaint about religious discrimination.

Mr P.A. KATSAMBANIS: My new question is again on page 118. I refer to services and key efficiency indicators and the first service, "Provision of Information and Advice Regarding Equal Opportunity and Human Rights". The budget papers refer to the need to make sure that there is dissemination of relevant and appropriate information on the act and relevant laws and human rights issues. Does the commission deliver training or advice to other government bodies about equal opportunity matters? If that is the done, how is that handled?

Dr J.C. Byrne: Yes. We have two full-time training officers and they deliver the training courses to other government departments and the private sector. It is on a fee-for-service basis; we charge them for that. Mostly,

they request a particular type of training—for example, sexual harassment training can be a request by a government department or the private sector. In addition to this organisation-type training, we run free training courses for the public. For example, if a conciliation officer goes to conciliate a complaint in a country area, the local people know in advance that Equal Opportunity will be there and there will be a two-hour session and anybody can come to it, so we get the word out that way. Yes, we do quite a lot of training to government departments and others.

Mr P.A. KATSAMBANIS: I am not sure whether the commissioner has this information on hand or whether he can provide it as supplementary information, but is he able to tell me whether the commission has delivered any equal opportunity training to Lotterywest at any time in the last three years?

Dr J.C. Byrne: I am not aware of providing Lotterywest training. It is a small organisation. We mainly provide private training to big organisations. However, I can take that question on notice and respond.

Mr J.R. QUIGLEY: Yes, we will take that as a supplementary.

The CHAIR: Minister, you have to say what the supplementary information is, but it is okay. Commissioner, can you outline what you believe the supplementary information is?

Dr J.C. Byrne: It is whether the Equal Opportunity Commission has provided training to Lotterywest in the last three years.

[*Supplementary Information No A26.*]

Mr P.A. KATSAMBANIS: With the indulgence of the minister, could there also be an outline of which areas of equal opportunity that training may have covered?

The CHAIR: I have already allocated that number. Does the member want another piece of supplementary information?

Mr P.A. KATSAMBANIS: I see the commissioner nodding. If that could be separate supplementary information, I would appreciate it.

The CHAIR: Just to be clear, the member for Hillarys is asking that the commission give information about whether it did training to Lotterywest on equal opportunity legislation. We have already given that a supplementary information number. Now the member is asking for additional supplementary information outlining or detailing the training that was given.

Mr P.A. KATSAMBANIS: Yes, the specific areas.

The CHAIR: Is the minister happy with that?

Mr J.R. QUIGLEY: I am happy.

The CHAIR: Can the commissioner repeat that for me so it is clear what he will be giving?

Dr J.C. Byrne: The first of the two questions, supplementary information A26, was: has the Equal Opportunity Commission provided training to Lotterywest in the last three years? The second, A27, was: if so, what was the nature of the training provided?

[*Supplementary Information No A27.*]

The appropriation was recommended.

[2.20 pm]