

SELECT COMMITTEE ON ESTIMATES

(Reference: Appropriation Bill 2003-2004 (No 3))

Members:

MRS CROSS (The Chair)

MS MacDONALD (The Deputy Chair)

MR SMYTH

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 27 APRIL 2004

Secretary to the committee:

Ms S Mikac (Ph: 6205 0136)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 5.06 pm.

Appearances:

Ms Katy Gallagher, Minister for Education, Youth and Family Services, Minister for Women, and Minister for Industrial Relations

Department of Education, Youth and Family Services—

Mr Tim Keady, Chief Executive

Ms Anne Thomas, Executive Director, Resource Management

Ms Julie McKinnon, Executive Director, Children's, Youth and Family Services

Mr Rob Donnelly, Director, Budget and Facilities Branch

THE CHAIR: (Mrs Cross): Minister and officers, you should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Minister, you requested a supplementary hearing and we were happy to grant you one. I will leave the floor open to you.

Ms Gallagher: Thank you, Madam Chair. Firstly, I thank the committee sincerely for the opportunity to reappear today. I have come back to the committee because I have information available to me that will impact on the third appropriation and, as the committee had not reported and the third appropriation had not been debated, I felt it only right for the committee to have that information made available to it.

This information became available after I appeared before the committee on 6 April and it had to be considered by cabinet prior to me returning to the committee. I thank the committee very much for this opportunity and also for its willingness to allow me to have last week off. I know that this places enormous pressure on the committee in terms of reporting.

To cut straight to the chase, the issue is to do with data that became available through the third quarter on substitute care days. I have some information for the committee, which I will now table. It provides you with information about substitute care days and the cost of those care days over the last three years. I also table amendments to the third appropriation that will be moved by the Treasurer next week. The issue is that I am seeking through the third appropriation an additional \$4.5 million, bringing that line in the budget to a total of, I think, \$7.847 million if the capital costs are included.

What we have seen through the third quarter reports is that the number of days has increased again on the second and first quarters. Importantly, the biggest determining factor here is the cost of that care, which did rise in the second quarter and which has risen again in the third quarter, which is something that, I think, had not been reflected in previous years; but it is certainly indicated now through our reports on that third quarter that the children we have in the care of the territory are high-cost children.

Looking back over the last two years and what we have seen in the second and third quarters, particularly the third quarter, we are basing our estimates in the fourth quarter on the days of care required being maintained at around 29,000 and the cost of that care being maintained at a figure of \$173. As you can see from that table, the average cost of care in the first quarter of this financial year was \$135 per day. I will get Rob Donnelly to speak a bit more to that table and explain some of what you can see there.

At the moment, we have high-need children costing more than we have seen in the past and the days of care required are also higher than we have seen in the past. That has resulted in this need for an additional \$4.5 million to pay for the increases we have seen in the third quarter, but also based on the assumption that those figures will be maintained in the fourth quarter. That is the story and that is why I asked to reappear before this committee.

The third quarter results finished on 30 March. Once they were all put together, the department briefed me on 13 April. I took a note to cabinet on that day, based on the information the department had provided to me. On 15 April, cabinet agreed to an amendment being made to the third appropriation based on those figures. Madam Chair, I approached you on Friday, 16 April to seek the opportunity to reappear, because it is a large sum of money and it does impact on the third appropriation.

THE CHAIR: Minister, before you call upon Mr Donnelly, I want to ask you a couple of questions. Mr Donnelly and anyone else, when you first speak, identify yourself and state what you do. Minister, the committee have the pleasure of having you come before us again. We are very sorry for your personal circumstances.

Why did the department wait to the 13th to brief you or update you on the correct figures? Why hadn't they done that to prepare you when you came before the committee the first time? I have some concern that the department waits until after you have stuck your neck out, either given a speech in the chamber or come before a committee, before they update you or equip you with everything you need to be equipped with. Perhaps you would like to explain that to the committee.

Ms Gallagher: My understanding of that, as I have just alluded to, is that we were all waiting on the third quarter results. I have had a look at these figures. I have been pretty honest on the child protection front in terms of the figures that we have been seeing since towards the end of last year. We did have some concerns that the number of days was increasing. At the time, we were not conscious of the fact that the cost of those days, the cost of those children requiring that care, was increasing at the rate that it was.

We pay in arrears in a sense. The court orders you to take a child. It turns out that the child has particular needs and a particular amount of support has to be provided. The response is immediate. The cost of that response is not immediate. The third quarter cut-off finished on 30 March. I appeared here on 6 April. I do not know whether there was a weekend in between, but it takes a few days to pull that information together. As soon as the department had pulled that information together, which, unhappily did not occur before the 6th, the information was provided to the government, straightaway, and, as I said, I had it dealt with in cabinet within two days of having that information.

Our response has been very immediate, but it has been measured on the statistics available at the time. I say again that it would be useful if Rob did get the opportunity, because what we are seeing at the moment is a high number of days and a high cost. It is not something we have seen before. The table actually shows—I am just trying to find it—that we had a situation where our days increased by perhaps 5,000 but the cost of those days was not as great as it has been, so the overall cost was less, even though you were providing for 5,000 more days. It is just who you have in care at the time.

THE CHAIR: We will come to Mr Donnelly in a minute.

Ms Gallagher: It is not an exact science; it is not something you can predict. That, I guess, is the issue of dealing with non-discretionary funding, because it is non-discretionary; this is what is being paid for.

THE CHAIR: Did the department know before 6 April of this information?

Ms Gallagher: No.

THE CHAIR: So the department worked out just after 6 April that it needed to look at its information and worked out that it needed to get more information to the minister.

Mr Keady: My name is Tim Keady. I am chief executive of the Department of Education, Youth and Family Services. Mr Donnelly can provide you with an outline of the technical details of how these figures were derived, but when we appeared at estimates on 6 April we did not have the latest quarterly figure, that is, for the March quarter.

THE CHAIR: You just did not have the information. Okay.

Mr Keady: No. There is a process for compiling these figures. When we appeared here on 6 April we did not have that information.

MR SMYTH: Minister, having just got the sheet, why would we expect, after quite significant growth in the last three quarters in the number of days provided, that it would taper off for the last quarter of this year? It grew by 648 in the first quarter and 2,094 in the second quarter. Sorry, it grew by 1,700 in the first quarter over the previous quarter of the last financial year and then it grew by 468 and 2,094, and you are expecting it to drop by 1,675 days in the last quarter of this year. Why would you expect that when there has been constant growth this financial year?

Mr Donnelly: Perhaps I can answer that. My name is Rob Donnelly. I am director of the budget and facilities branch. The 28,000-day estimate for the fourth quarter is roughly based on the average across the full year to date—quarter one, quarter two, and quarter three. Estimating costs and estimating the number of days that may be required for substitute care is more of an art than a science. There is no specific formula that you can apply.

It might be helpful if I run the committee through some of the key aspects of that process in terms of what we do. At the end of each quarter, we have a look at the figures that are generated for the quarterly report, which go through a process. They come off the

database, are verified and are matched with costs to come up with both the number of days and an average cost. That process, as the minister said, takes a number of working days.

It is important to note that the average cost can vary quite significantly over the time period. For example, in quarter four of 2002-03 the average cost was \$120 a day, whereas in quarter three of 2001-02, which was 15 months earlier, the average cost was \$157 a day. That is because the average cost is actually calculated based on the individual children in the care of the territory.

We might have low-needs children, and the lowest category of children we can assist in the order of \$12 a day. That is a fairly simple case where a child might go to a relative and that relative needs some supplementation to look after the additional needs of caring for that child. In particularly complex cases that figure can skyrocket to well over \$1,000, sometimes over \$1,500, a day. The average cost, which we calculate at the end of each quarter, is not apparent until we know what is the mix of those very complex cases as opposed to the proportion that are relatively simple.

In terms of an example of one of those high-cost cases, recently a magistrate ordered that the chief executive develop a therapeutic plan within 72 hours for a particular client. There were fears for the client's safety. Threats had been made against her life. We contracted a support service in New South Wales to care for this individual because there were no facilities in the ACT that could meet the needs. That service cost us \$94,000 for 12 weeks, which is over \$1,000 a day, in addition to those costs that are just the cost of the service meeting the care needs of the child.

There were additional costs in terms of getting the family to visit, because they were no longer in the ACT. There were some costs incurred with an ambulance after a suicide attempt, and so on and so forth, so those costs again add together to increase the average daily cost of looking after that client and, thereby, the average daily cost of looking after all clients.

It is easy to see that when we get a high number of these relatively complex cases the average cost can go up quite dramatically, as it has over the last two quarters. However, that cost can just as easily go down. If you look at 2002-03, the cost in quarter two was \$152 a day, whereas the average cost in quarter four was \$120 a day. All of those variables and the way in which they can rapidly go up or down make it quite difficult to estimate a precise number. It is not as easy as saying, "In the past three quarters we have seen this trend and the next quarter will be the same."

MR SMYTH: You have added up the first three quarters of the year, divided by three and come up with 28,000. If you do that for the previous year, if you add up 22,000, 25,000 and 22,000 and divide by three, you come up with 23,274, whereas the figure for the fourth quarter in the 2002-03 financial year was 25,469. If that trend continues, you will be short by about 4,000 places. The previous year it was under.

Mr Donnelly: Those trends are not as simple as that. If you look at the previous year, as you have pointed out, if you use the exact same methodology you come up with a figure that is almost spot on the quarter four result for 2001-02. There is no consistent trend that over winter we place more kids in care and over summer there are less.

MR SMYTH: But that is the point. If there is no consistent trend, is there not some better way of modelling it than just adding up the first three quarters of the year and dividing by three to give you the fourth quarter, if potentially the fourth quarter will be out by 2,000 or 3,000 places? Minister, if you are out by, say, 3,000 places at \$173, does the department have another \$0.5 million to cover that cost? How would you cover the cost at the end of the year when, potentially, you could be out \$0.5 million?

Ms Gallagher: The point that we are trying to make here is that there is no way to predict, based on what we have seen in quarters one, two and three, what is going to happen in quarter four. My understanding is that when predictions are made for the quarterly reports they are made on an average of the first three quarters for next year, the targets for next year roughly. Rob is looking a bit worried at me for saying that.

Mr Donnelly: We haven't had a case where the changes have been as marked as this over the past few years, so there is not actually a precedent for that, but that is the methodology that we have used in this case.

MR SMYTH: The question is not about the numbers. The question is: if you are short of cash, how will you cope in June?

Ms Gallagher: I understand what you are saying. What we have seen in the third quarter is, hopefully, the worst of what we will see this year—a high number of days required, a high cost of children in care. We have maintained the cost of care, because we are not sure what is going to happen with that, but we are hoping that what we are seeing in the third quarter is a peak and that we will see it drop back to figures that we have seen in at least quarters one and two. Again, if it requires me to come back and seek further money for this area, I will do it; but what we have done in discussion with treasury and the department is come up with what we think the fourth quarter will be, as best we can for the reasons Rob and I have already explained.

MR SMYTH: But the question still is: how will you manage? If you do not have the cash, will you come back for additional money?

Ms Gallagher: Yes. Rob has something to add.

Mr Donnelly: There are two options for seeking additional funding if the funding provided in this appropriation is insufficient and they depend on the quantum. If it is a very small number, we may be able to meet it from within other areas of that output within the department. If another area's output is underspent by \$100,000, we will be able to cash manage that across to the tune of up to \$100,000. If the number is much larger—of the order of \$0.5 million or more—as you point out, we would need to seek Treasurer's Advance, if that were the appropriate thing to do.

MS MacDONALD: Obviously, estimating the costs is a bit like gazing into a crystal ball, so you would have to take into account what you have had for the last three quarters. Some of those costs will continue and some will peter out, but there is hope that some of the higher cost cases will be resolved.

Ms Gallagher: It is a mix of things. It is not just based on the costs of the high-need

kids. They are probably going to be with us longer than the ones that need less support. If children who require less support return to their families or do not require substitute care, that will ease the overall cost per day anyway, but they are the variables. On any given day, we do not know what those children and young people are going to need and the response has to be immediate, particularly with high-need children and young people, but you can only see in hindsight what has occurred. The costs are incurred before you have been able to pay. That is the issue here and the reason I have come back to the committee to explain that.

THE CHAIR: The thing that has stuck out for me is the fact that the shortfall is almost three times greater than the funding requested. Sometimes you would think that it would be the other way round. You would get most of it in and then think that you need another third or quarter. That is what has stuck out to me on this sheet. Unexpected circumstances do arise and the complete information, as Mr Keady said, was not available within less than a week, or a few days, of the minister appearing.

Mr Keady: Yes, the time of the last estimates hearing was at the time when we were compiling the quarterly figures and they had not been collated at the time. It was several days afterwards; I cannot remember which day.

THE CHAIR: I do not remember you mentioning at the time that you may have to come back to the committee, saying, “We may have to update you on this because we could be a bit out of kilter.”

Mr Keady: I did not expect a variation of this size, I guess. Certainly, the decision that the government has taken to rectify it by a further addition to the third appropriation bill has changed the dynamics of it.

Ms Gallagher: Helen, I understand your question. The \$1.8 million was based on advice provided to me and on discussions had in January. We are now making a decision for the rest of the financial year on the information that we have through that third quarter which indicates that this year we have seen a high number of days and we are not seeing what we have seen in previous years of fluctuations in costs to the degree that we have seen. We just do not have that movement. You can see that it went to \$169 and this quarter it is \$173, whereas in the other years you can have fluctuations in every quarter up and down. What we are seeing is up and up. We are now making provision for that to be continued in the fourth quarter.

THE CHAIR: I understand. Just to be consistent with my questioning of other ministers, an amendment will be put to this appropriation because you cannot wait until the government’s budget next week; you have to have it this year.

Ms Gallagher: That is because it is money for this financial year.

MS MacDONALD: Minister, you have already answered my question to a certain extent but, looking at the trends in previous years—in 2002-03, the average cost was \$127 in the first quarter, \$152 in the second quarter, \$124 in the third quarter and \$120 in the fourth quarter, and in the first quarter of 2003-04 it was \$135—I would have thought the \$169 might have been a spike and expected it to go down.

Ms Gallagher: That is the issue with the cost of care. You could have seen \$169 as one of those upward movements and then it would come down again, but we have not seen that. I have taken the decision, on advice given to me, that we need to make provision for that high cost to continue for the rest of the year. Hopefully, there will be some drop-off in the number of days required.

MR SMYTH: If, on the number of days provided, you got the fourth quarter estimate by an average, why didn't you use that for the average cost for the fourth quarter—add up the three previous quarters and divide by three? Is there any reason to indicate why you should keep at the high level of \$173?

Ms Gallagher: I will answer and Rob may add to it. I wanted to see some capacity not to return to seek further funding. I think it was more difficult on the days. I think that if we maintain that high cost for this fourth quarter, at least as an estimate, that gives us some capacity within the funding we are seeking to come out at the end of the year within what we have now asked for. Is that right?

Mr Donelly: Yes. I would add to that, as I think I said before, estimating these costs is more an art than a science. We are certainly aware of the number of high-needs cases that we had before us in the third quarter. A number of them will be continuing, so there is reason to expect that in terms of cost, in particular, the average cost will continue to be higher. There is no mathematical formula that says that if you plug these numbers into a calculator you will end up with the right answer. I wish there were. It certainly would make my job a lot easier.

MR SMYTH: I take the point. It is just in terms of trying to seek some consistency. On the days you have taken the average for three quarters, which gives you a lower figure as you are potentially out by 1,675 days, whereas on the average cost you have said, "Okay, what is the highest cost? We do not expect it to go above the high cost." You are taking two different approaches for two different calculations. Would it not be wiser to take a higher number on the days if you are going to take the higher cost and hedge your bets in that way? I understand that it is an art and not a science. Is there any reason you would go for the average number versus the highest cost?

Mr Donelly: Only that the information that we had at the time was that they were the best numbers to use. We are aware that some of the high-cost cases will be continuing into the fourth quarter. As a result, it was prudent to use the high cost. We are not aware that there will be a larger or, indeed, smaller number of days used than in previous quarters.

THE CHAIR: On the \$94,000 client, you cannot predict when you will get such clients, but would you say that one comes along once a quarter?

Mr Donelly: One of that magnitude would probably be of that order.

Ms McKinnon: My name is Julie McKinnon. I am executive director of Children's, Youth and Family Services. At the moment, it would be fair to say that the number of high-need cases is extremely high. Over the quarter, not necessarily concurrently, we had almost a dozen that were high-need cases. Some of them lasted longer than others and some were shorter. In other quarters you may get three or four. The number at the

moment is higher than normal, but those cases are significant and some of them, as Rob said, are continuing, which was an argument for the \$173 days continuing.

In terms of the average, treasury was also looking at these figures fairly closely and looking for some sort of balanced approach. Given that they, too, had watched the hikes in the previous years, I think that the days are not necessarily on any upward spiral. It was the idea that, at the moment, we certainly could argue that we did have some high-level cases in the last quarter. That would possibly continue to keep those figures up for the cost per day.

THE CHAIR: What is our success rate with the high-risk clients? You said that the number varies from a dozen to three or four in certain areas. Do we rescue and save these children when we focus so much of our resources on this small group? Would you like to be doing it to more children? Can you enlighten me as to the high-risk group?

Ms McKinnon: With the high-risk group, you are probably talking about between life and death; I think it is almost as simple as that. These are children who are very much at risk of abusing themselves or need particular physical or mental attention and, without that, they are nothing. The question lies: what would happen to them? They may not be here, but they are still here. If you call that success, it is probably measured.

MR SMYTH: On the second page of the supplementary document you have given us it is said that this amendment is necessary due to the substantial increase in numbers and it takes the number from \$4.58 million to \$7.38 million. When you actually get into the supplementary pages you find on page 206 in the second dot point there is the new figure of \$7.382 million. Is that the only change?

Ms Gallagher: Yes.

MR SMYTH: There is nothing else? We do not have to go back and compare pages?

Ms Gallagher: No. The \$7.382 million includes the \$2.8 million that we have previously discussed and the \$0.465 million. No, that is out of that; sorry, the capital is separated out. So it is the \$2.8 million and the \$4.582 million that we are seeking now.

MR SMYTH: So that it is a single change.

Ms Gallagher: It is a single change.

MR SMYTH: And that, of course, would have adjustments in the figures in the bottom line—in changes to the appropriation in the chart the \$7.382 million appears—so we do not have to go looking through for other changes elsewhere.

Ms Gallagher: No, there is no other change.

MR SMYTH: That is fine by me.

THE CHAIR: Is there anything else you would like to add to that, Minister?

Ms Gallagher: I should say that in the third appropriation the amendment is being made

for this year—I am just looking for whether it is clear in the papers—and then it goes back to the \$2.8 million indexed in the outyears. I just wanted to assure the committee that provision is being made for this to be maintained in the budget. It was a matter of the simplicity of the amendment. We wanted to amend one year. I am trying to say that we are making provision in the budget for the next four years along similar lines to what we are basing our decision for the third and fourth quarters.

THE CHAIR: The committee will need a little bit of time to go through this document.

Ms Gallagher: Certainly. I meant to add at the beginning that if members were wanting more information, my office and officials will be available for the rest of the week, and for the committee if it needs further advice. I apologise for having to come back and do this, but I thought that it would be better to proceed in this way whereby you would have all the information and several days to digest it, rather than just circulating an amendment on Tuesday when the Assembly resumes. I hope that that has been of assistance to the committee.

THE CHAIR: It has. Would anyone like to add anything before I close the proceedings?

Mr Keady: No, thank you.

THE CHAIR: Okay. I thank you for coming.

The committee adjourned at 5.39 pm.