

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



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*Budget Estimates  
8 to 12 October 2012*

The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au) or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on [council@parliament.nsw.gov.au](mailto:council@parliament.nsw.gov.au).

### Overview

Each year Government ministers and senior public officials attend an annual Budget Estimates Inquiry to answer questions about the expenditure, performance and effectiveness of their departments.

Budget Estimates is a key process for government accountability and transparency. The Inquiry is conducted by the Legislative Council's five General Purpose Standing Committees (GPSCs), each of which is responsible for examining specific portfolios. The Inquiry involves hours of detailed questioning by members of the GPSCs on the decisions made, actions taken, and advice provided by ministers and public servants. Most Australian parliaments conduct similar inquiries.

This year, the initial round of Budget Estimates hearings was held over the week of 8 – 12 October 2012.

### What is the Budget Estimates Inquiry?

One of the most important features of the NSW process, undertaken by the Upper House since 1995, is that every Minister appears for questioning and hearings for large portfolios can last up to four hours. During the hearings, committee members from the Opposition, Cross Bench and Government question the ministers and senior public officials in order to scrutinise government expenditure, as set out in the Budget Papers tabled in the House.

Unlike in some jurisdictions, scrutiny of the Budget Estimates takes place after the Budget has been delivered, and is not part of the process for approval - the *Appropriation Bill 2012* passed the Legislative Council on 19 June 2012. Also, it is clearly established that there is wide latitude in questioning and members do not have to refer to individual budget line items to frame their questions.

### Budget Estimates 2012-13

Each year the Legislative Council passes a resolution which sets out the rules under which the Estimates process operates and the dates for the initial week of hearings and supplementary hearings. The resolution to

establish the 2012–13 Budget Estimates Inquiry was passed on 15 March 2012.

Key features of the resolution are:

- large portfolios are allocated up to four hours for initial hearings with smaller portfolios receiving two hours or less
- hearings are held between 9.00am and 6.00 pm each day, two at a time, except on the first morning when three hearings were held simultaneously
- all hearings must be heard in public and witnesses must be Ministers or officers of departments, statutory bodies or corporations
- there is no provision for Ministers to make opening statements
- Committee members are allowed to lodge questions on notice with the committee Secretariat during a hearing and up to two days following, with 21 days for answers to be provided unless a committee decides otherwise
- Committees are required to present a final report to the House by the last sitting day in the first week of February 2013.

Distribution of time for questions between Government, Opposition and Cross Bench members is not addressed in the resolution; rather, committees deliberate prior to each hearing to assign time for questions. Typically, committees resolve to equally divide time between the three groupings.

In mid September 2012 a new portfolio of Industrial Relations was created and the Treasurer, the Hon Mike Baird MP, was appointed as Minister for Industrial Relations. As a consequence the House amended the resolution referring the Budget Estimates Inquiry to the GPSCs to include Industrial Relations within the same hearing as Treasury.

## The hearings

A transcript of each hearing can be obtained by selecting the relevant portfolio via the Budget Estimates website: [www.parliament.nsw.gov.au/budgetestimates](http://www.parliament.nsw.gov.au/budgetestimates)

**Table 1: Budget Estimates 2012-13 statistics**

Hearings held	23
Ministers appearing	23
Public servants appearing	113
Total hearing time	59 hours
Supplementary QoNs	3289
Hearings without Government questions	10

The only significant difference between the figures in Table 1 and those from last year's Inquiry relates to the number of supplementary Questions on Notice: last year there were 2048 supplementary questions, 1,241 fewer than this year's total of 3289.

## Procedural issues

### Statutory Secrecy

During the GPSC 4 hearing into the Police and Emergency Services portfolio on 11 October 2012, Deputy Police Commissioner, Catherine Burn was asked a question about the report of Strike Force Emblems. The Minister for Police and Emergency Services and the Hunter, the Hon Michael Gallacher MLC, told the Committee that the Emblems Inquiry should not be the subject of public discussion at this stage.

A Committee member proceeded to ask Ms Burn a specific question about an aspect of the Emblems investigation, to which she responded that she could not answer, stating: 'I cannot because of the secrecy provisions of the Crime Commission. It is a criminal offence and I cannot give you a full account; I cannot give an answer to that question'.<sup>1</sup>

Shortly afterwards the Hon David Shoebridge MLC commenced asking Ms Burn questions about a specific listening device warrant and referred to a memorandum relating to the warrant which he stated was authored by the witness.<sup>2</sup> At the Minister's request to table the document Mr Shoebridge expressed a willingness to provide the memorandum to Ms Burn, handing the document to the Minister. The Minister noted that the document was marked 'highly protected' and expressed concern about it being discussed. At this point the Chair adjourned the hearing and the Committee met in private.

Prior to this adjournment, the Committee Chair, the Hon Sarah Mitchell MLC, advised that, in general terms, statutory secrecy provisions have no effect on the powers of the Houses and their committees to conduct inquiries and to ask questions of witnesses. The Chair's statement

<sup>1</sup> GPSC4, Budget Estimates Inquiry, 11 October 2012, uncorrected transcript, p 16.

<sup>2</sup> GPSC4, Budget Estimates Inquiry, 11 October 2012, uncorrected transcript, p 16.p 17.

accords with the view of the Legislative Council on this issue, as discussed on pages 80-81 and 512-516 of *New South Wales Legislative Council Practice*.

After deliberation on the matter the Committee resolved that questions in relation to Strike Force Emblems be adjourned until a Supplementary Budget Estimates hearing on 29 November 2012, in order to provide the witnesses and the Committee with the opportunity to seek legal advice.

### Twittering during a hearing

During a hearing into the Roads and Ports portfolio, the Minister for Roads and Ports, the Hon Duncan Gay MLC, asked the acting Chair to clarify whether the use of Twitter by a committee member to comment on what was being discussed during the hearing, constituted a contempt of the committee. The Minister was responding to reports that a committee member, the Hon Penny Sharpe MLC, had 'tweeted' comments regarding the Minister's evidence.

The Acting Chair, the Hon Niall Blair MLC, ruled that while tweeting by members during a public hearing had the potential to 'undermine the working of the committee' and therefore members should desist from tweeting, it did not constitute a contempt of the committee.

### 'Dorothy Dix' questions

Last year the Government members elected not to ask questions in a significant number of hearings. This trend continued this year with Government members asking questions in only 13 out of a total of 23 hearings.

### Supplementary hearings

A week of supplementary hearings has been scheduled for 26-30 November 2012. With the exception of GPSC 4, which agreed to have a supplementary hearing for the Police portfolio in relation to questions on Strike Force Emblems, the remainder of the committees will decide whether to have supplementary hearings, after the receipt of answers to Questions on Notice.

## Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to [stephen.frappell@parliament.nsw.gov.au](mailto:stephen.frappell@parliament.nsw.gov.au).

All responses will be kept strictly confidential.



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