

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/54

*Budget Estimates
12 to 16 August,
19 and 23 August 2013*

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 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.

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 12 – 16 August as well as 19 and 23 August 2013, a departure from previous years when hearings have been held during non-sitting weeks.

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 question the ministers and senior public officials in order to scrutinise government expenditure, as set out in the Budget Papers tabled in the House. 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.

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 2013* passed the Legislative Council on 25 June 2013.

Budget Estimates 2013-14

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 2013–14 Budget Estimates Inquiry was

passed on 14 November 2012. A further resolution on 21 May 2013 provided details of the initial hearing schedules.

Key features of the resolution included:

- large portfolios allocated up to four hours for initial hearings with smaller portfolios receiving two hours or less
- hearings to be held between 9.00 am and 6.00 pm each day, except the first day, whereby hearings concluded by 5.00 pm
- two hearings were scheduled simultaneously on 12 and 16 August and for a half day on 14 August. During other days, one hearing at a time was scheduled
- all hearings must be heard in public and witnesses must be Ministers or officers of departments, statutory bodies or corporations
- no provision for Ministers to make opening statements
- Committee members are able to lodge questions on notice with the committee Secretariat during a hearing and up to two days following. Answers are to be provided within 21 days
- Committees are required to present a final report to the House by the last sitting day in the first week of February 2014.

Distribution of time for questions between Government, Opposition and Cross Bench members is not addressed in the resolution. Committees deliberate prior to each hearing to assign time for questions – and typically questions time would be allocated evenly between Government, Opposition and Cross Bench members. However, as noted later in this edition, this year most committees resolved that questions from Government members would not be asked, on the proviso that the hearing was subsequently shortened.

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

Budget Estimates statistics

Table 1 below summarises the statistics for the 2013-14 Budget Estimates hearings.

Table 1: Budget Estimates 2013-14 statistics

Hearings held	24
Ministers appearing	23
Public servants appearing	114
Total hearing time	52 hours
Supplementary QoNs	3479
Hearings without Government questions	19

'Dorothy Dix' questions

There has been a trend over the last few years for Government members not to ask questions during Budget Estimates hearings. Last year the Government members chose not to ask questions in ten (out of 23) hearings. This trend increased significantly this year with Government members not asking questions in 19 out of 24 hearings.

Supplementary Questions

Members can lodge supplementary questions to Ministers up to two days after a hearing – which have to be answered within 21 days. Table 2 lists the number of supplementary questions received each year since 2006/07. This year 3,479 supplementary questions were received.

Table 2: Supplementary QoNs - comparative statistics from previous years

13/14	12/13	11/12	10/11	09/10	08/09	07/08	06/07
3479	3289	2048	2409	1779	1800	over 800	over 5000

Procedural issues

Statutory Secrecy

During last years' hearings into the Police and Emergency Services portfolio some members of GPSC 4 attempted to ask questions in relation to Strike Force Emblems. The witness replied that she could not answer due to the secrecy provisions of the Crime Commission Act. The Committee deliberated on the issue and sought legal advice, which subsequently advised that the Committee has the power to compel answers to questions that may otherwise be caught by statutory

secrecy provisions. GPSC 4 ultimately resolved not to pursue the matter until the work of the Police Integrity Commission and the Ombudsman in relation to aspects of Operation Emblems is finalised.

This year at the commencement of the GPSC 4 hearing into Police and Emergency Services and The Hunter, the Acting Chair the Hon Robert Borsak read the following statement in relation to Strike Force Emblems:

'I have been advised that 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. Nor does the sub-judice convention restrict the power of committees to ask questions in relation to investigations being conducted by the Ombudsman. It is the fundamental principle that the law of parliamentary privilege, including the powers of the House to compel an answer to any lawful questions, is not affected by statutory provision unless the provision alters that law by express words. Nevertheless, as the budget estimates inquiry must be held in public members should exercise caution about pursuing questions in relation to matters covered by statutory secrecy provisions.

So while the committee has the power to ask questions in relation to Operation Emblems and the Ombudsman's taskforce, a separate question is whether it is appropriate in the particular circumstances, to canvass these issues. In my view it is not appropriate, given the investigation by the Ombudsman, and hence I will not permit any more questioning of this matter.'

Supplementary hearings

Supplementary hearings have been scheduled for 8-11 October 2013. The committees will decide whether to have supplementary hearings after the receipt of answers to Questions on Notice, the last of which are due to be received by 18 September 2013.

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.

All responses will be kept strictly confidential.



David Blunt
Clerk of the Parliaments