COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

Reference: Administration of Indigenous Affairs

FRIDAY, 18 FEBRUARY 2005

CANBERRA

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SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

Friday, 18 February 2005

Members: Senator Moore *(Chair)*, Senator Johnston *(Deputy Chair)*, Senators Carr, Crossin, Heffernan, Nettle, Ridgeway and Scullion

Senators in attendance: Crossin, Johnston and Moore

Terms of reference for the inquiry:

To inquire into and report on:

(a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;

(b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and

(c) related matters

WITNESSES

BANKS, Mr Gary Ronald, Chairman, Productivity Commission..... 1

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SHEEN, Dr Robyn, Assistant Commissioner, Productivity Commission 1

Committee met at 12.10 p.m.

BANKS, Mr Gary Ronald, Chairman, Productivity Commission

SHEEN, Dr Robyn, Assistant Commissioner, Productivity Commission

CHAIR—I declare open this public meeting of the Senate Select Committee on the Administration of Indigenous Affairs, which is today finally sitting in Canberra. This committee was reappointed on 17 November 2004 in the 41st Parliament to continue the inquiry which began during the 40th Parliament. The inquiries have the same terms of reference, which address the administration of Indigenous affairs in Australia, with particular reference to the abolition of ATSIC and the mainstreaming of services for Indigenous people to individual government departments. The committee has adopted all of the evidence collected during the first part of the inquiry, including the transcripts of evidence from public hearings in Alice Springs, Broome, Darwin, Gove, Thursday Island and Cairns, and since late January the committee has held public hearings in Brisbane, Moree and Sydney. This will now be the fourth hearing in Canberra.

Naturally, and particularly for this committee, before we commence we acknowledge the traditional owners of the land. I welcome the representatives from the Productivity Commission. You know the provisions regarding public servants giving evidence and also the access to in camera provisions should you need them. Do you have any comments to make on the capacity in which you appear?

Mr Banks—I am Chairman of the Productivity Commission but the capacity in which I appear before you is really as Chairman of the Steering Committee for the Review of Government Service Provision.

Dr Sheen—I am assistant commissioner with the Productivity Commission and I appear as head of the secretariat of the review of government service provision.

CHAIR—Would either of you like to make an opening statement?

Mr Banks—Thank you very much for inviting us here today to discuss the role of the review of government services in relation to services and outcomes for Indigenous people. As you may know, the review was originally established by heads of government back in 1993 to provide information on the effectiveness and efficiency—

CHAIR—It seems so long ago now.

Mr Banks—of the services provided by Commonwealth, state and territory governments through the publication of an annual report, which has come to be known as ‘the blue book’. I think you have seen the blue book and you have also seen the compendium that relates to Indigenous people. I will come to that in a minute. The steering committee, comprising senior officials from central agencies of all governments, has primary responsibility for the review. The Productivity Commission inherited the role of one of its predecessors, the Industry Commission, of secretariat for the review. As Chairman of the Productivity Commission I also chair the steering committee for the review.

Perhaps it is not surprising that there is some confusion about the Productivity Commission's role, so I should emphasise that, while the commission has an active agenda of inquiries and other reports commissioned by government—and, I might add, an increasingly diverse agenda reaching into areas of social and environmental policy as well as economic issues—its role in relation to the review is to support the review's steering committee. It is those officials who have responsibility, collectively, for signing off on the review's publications.

That COAG chose the Productivity Commission for this important supporting role reflects, I think, its statutory independence and its significant public policy research capability. The Productivity Commission in its own right has to date not conducted any studies relating specifically to Indigenous people. However, some key public inquiries, like the ones into gambling and broadcasting, have picked up some issues of particular significance for Indigenous people.

The review embraces services as diverse as education, health, justice, emergency management, public housing and community services spanning child care to aged care. Together they add up to some $65 billion in expenditure, or around one-third of total government spending. While all Australians benefit from these services in one way or another, they are particularly important to the less privileged and they also serve broader community purposes which transcend the needs of particular users, including the need for high standards of public health, citizenship and law and order.

Apart from the Productivity Commission's contribution, the steering committee is supported by working groups for each of the 12 sectors. These working groups comprise representatives from the 80 or so relevant line agencies in all jurisdictions and, in a way, form the engine room of the review. Many working groups also have observers from various statistical agencies like the Australian Bureau of Statistics or the Australian Institute of Health and Welfare. They provide much of the data for the report. For each sector that the review reports on, a performance indicator framework has been developed and within this framework performance is reported in terms of efficiency, effectiveness and equity.

The framework, therefore, seeks to draw a picture for the reader about performance in all of its dimensions. Even where no data are currently available, we will tend to include a necessary indicator in anticipation of being able to complete it more fully in future reports. So the report is an evolving thing, and that is part of the reason why it is becoming so large. Over the years since it commenced, the review has made many incremental improvements to the report and each year it gets better in the coverage and the comparability of the data and its usefulness to the participating governments increases.

In 1997 the steering committee was specifically asked to enhance its reporting of the delivery of mainstream services to Indigenous people. This request came from the Prime Minister on behalf of COAG. That task has proven to be both difficult and rewarding. It has been difficult because many administrative data collections do not distinguish between Indigenous and non-Indigenous clients and, added to that, the method and level of identification of Indigenous people tend to vary across jurisdictions. I am sure the committee is familiar with these problems. Not only that, but the surveys do not necessarily include an Indigenous identifier, and when they do the results may not be reliable due to small samples. The difficulty relates, I think, to the quality and extent of data.

On the positive side, since we began to apply greater focus to Indigenous reporting, there has been an improvement in both the quality and level of reporting. From somewhat meagre beginnings in terms of the data that were available, the reporting on services has increased every year. There has been a steady improvement in both the quality and quantity of national data in most of the service areas. While the report's focus is on reporting on Indigenous people from an access and equity perspective, there are some areas where we are now able to also report on the effectiveness.

Since 2003 there has been sufficient data on Indigenous people's access to mainstream services for the review to publish a compendium of the data. The committee has been provided with a draft of the 2005 compendium, which I think will be released in about three or four weeks—with luck. In addition, and separate to the blue book reporting on services to Indigenous people, in April 2002, COAG commissioned the review to produce a regular report against key indicators of Indigenous disadvantage. You will have seen that report, and I have here a copy of the summary document that has been produced.

CHAIR—The document I have here will end up looking like the summary document?

Mr Banks—No, this is a separate exercise which, as I will discuss further, is focused on outcomes for Indigenous people rather than on looking specifically at the efficiency, effectiveness and equity of specific services received by them. I am happy to elaborate on that. The principal task assigned to the steering committee from COAG was to 'identify indicators that are of relevance to all governments and Indigenous stakeholders and that can demonstrate the impact of program and policy interventions'. It is very much about outcomes and being able to demonstrate improvement in actual outcomes.

Following extensive consultations, particularly with Indigenous leaders and organisations, the first report was published in November 2003. It has the title *Overcoming Indigenous disadvantage: key indicators*. This is obviously not the first report to assemble data on the social or economic status of Indigenous people. Its difference lies in the strategic framework within which the information is collected and presented. The reporting framework focuses on the causal factors that ultimately lead to disadvantage—areas where experience and logic suggest that targeted policies will have the greatest impact.

In contrast to the blue book and the compendium that you have got, it is an outcomes based framework. Its focus is not on the performance of individual services but rather on outcomes that might be affected by a range of services or other influences separate from government. The strategic areas for action focus on young people and on the environmental and social factors bearing on quality of life and material wellbeing. They, and the indicators that relate to them, have been developed with advice and feedback from governments, experts in the field and, most important of all, from Indigenous people and organisations.

You will be relieved to know that I am not going to attempt to go through the findings of all this work, other than to make the obvious point that they do confirm the major disparities evident between the circumstances of Indigenous people and other Australians. As I noted in a speech when this first Indigenous report was released, this is most fundamentally reflected in the unacceptably large gap in life expectancy. The two streams of reporting by the review provide an information base that hopefully will enhance the transparency of such disparities and help

governments monitor the effectiveness of their efforts to redress them. In closing, we are happy to provide any elaboration or respond to any questions on the work of the review although, as we foreshadowed, we are not in a position to comment on some of the specific policy issues that may be the principal focus of this committee's deliberations.

Senator JOHNSTON—Firstly, I thank you—and I am looking at the compendium—for the good work you have been doing on this. At Senate estimates you get to sit around for many hours listening to questions that seem quite inane at the time. I have been entertaining myself with reading this document, which has been a very enlightening experience. There are a couple of little things I wanted to talk to you about. Is it the case that all deaths in custody for 2003-04 occurred in police custody? I am reconciling figure 7.3 with figure 5.1.

Mr Banks—Can you give us a moment to have a look at that particular table. You are demonstrating a command of this report that we will have to get up to speed on.

Senator JOHNSTON—It is an issue that is one of the beacons in this area. Figure 7.3 on page 51 says, 'Prisoner death rates from apparent unnatural causes, 2003-04'. Figure 5.1 on page 43 says, 'Deaths in police custody and custody-related operations'. In figure 7.3 Tasmania, the ACT and the Northern Territory do not appear to have any deaths from unnatural causes—it records zero deaths for them—but in Queensland, for instance, deaths of Indigenous prisoners has got a completely diverse figure. Do you follow me?

Dr Sheen—Can I answer your first question before we go on to that? The figure at chapter 5 relates to prisoners who are in police custody, so they may be in holding cells—in any case they have not been sentenced yet—whereas the people you are referring to in chapter 7 are actually in a corrections facility. They are in a prison or a detention—

Senator JOHNSTON—So it is a totally different database?

Dr Sheen—They are different sets of data.

Senator JOHNSTON—Let us focus on figure 7.3. How is it that Queensland has recorded deaths per 100 of 0.16 and every other state, save for Tasmania, has recorded no Indigenous prisoner deaths?

Dr Sheen—It is probably the case with Tasmania, the ACT and the Northern Territory—although I would have to go to the attachment tables, which we have not brought with us—that the numbers are too small for us to report. If there are less than three we cannot report them, because the people can be identified, so they are not included, although it does say here that there are none at all.

Senator JOHNSTON—I would have thought that was an interesting figure for the Northern Territory, given the sorts of themes of the Northern Territory. The statistics indicate that, in terms of Indigenous matters, the Northern Territory is always on the high side because a large percentage of the population is Indigenous. I find that an interesting figure. Do you think we have a problem with the states recording data?

Dr Sheen—As far as I know, not in terms of prisoner death rates.

Senator JOHNSTON—What about Queensland? Can we say anything about Queensland, off the top of our heads?

Dr Sheen—Unfortunately, I do not have the framework here, so I do not know whether that is comparable data. I am not trying to avoid answering the question, but it may not be comparable data.

Senator JOHNSTON—When I was looking through these things, I was looking for anomalous indictors and things that cause me to ask whether we are keeping an accurate account of these things at a state level. I know the states probably do all the data-keeping. Going to 10.3—and there are no page numbers—

CHAIR—I think it is easier to go with the figures.

Senator JOHNSTON—Yes. It is 10.3. The bottom right-hand side says 10.7. There is a 'standardised hospital separations for lower limb amputation, with principal or additional diagnosis of type 2 diabetes'. That is for all hospitals, 2002-03. Again, the Northern Territory has no data.

Dr Sheen—That is right. Only the good data that we have of those jurisdictions are reported. Unfortunately, we cannot publish the Northern Territory data.

Senator JOHNSTON—Because it covers private hospitals?

Dr Sheen—No. There is a real reluctance in some hospitals—and this goes across the country, so it is not just about the Northern Territory—to collect data on separations—or identify it.

Senator JOHNSTON—Let us explore that. Is that because of infections?

Dr Sheen—No, there is some sensitivity about asking people whether they are Indigenous. Some hospitals do it and some do not. The extent to which some do and some do not goes to the extent to which the data are then credible.

Senator JOHNSTON—You have mentioned that in a number of graphs. The data has a bit of an unreliability aspect to it.

Dr Sheen—Yes.

Senator JOHNSTON—It makes it difficult for us, doesn't it?

Dr Sheen—It does. That is why, say, for hospital separations—which we see as being a very important indicator in the report—we simply do not report any data that we do not believe has some reliability.

CHAIR—My understanding is that they all have separations data, but your point is that they do not identify within that data?

Dr Sheen—That is correct. To explain that a little further, there are also different ways that they may collect the data—for example, in some places they will ask the person to fill in a box: 'Are you Indigenous or non-Indigenous?' In some cases they do it by self-identification—and that is particularly an issue with respect to some police in some states—that is, by the person recording the data looking at the person and saying, 'I think that you are Aboriginal,' and ticking a box. Those sorts of identification systems tend to give rise to questions about the reliability of the data.

Senator JOHNSTON—Do we have a solution to that? Is there anything we can do in working towards that? Do we need to talk to hospitals about how important the data is and the need to take a little bit of care with the hospital community relations person?

Dr Sheen—I think that there is a fairly significant move across all the jurisdictions to try to improve their data in this area. It is driven, in a large part, by the sort of work that we do in terms of every time we report on an indicator and there are gaps in it, it drives the need to collect better data. So, as Mr Banks said earlier, over the years what we are now reporting has improved—

Senator JOHNSTON—Reading this, I see that over the five years covered there is a more—

Dr Sheen—It creates, first of all, some peer pressure to improve. A couple of years ago, we could only report on hospital separations in two jurisdictions, so it is improving. There is also an imperative coming, as I understand it, from health ministers councils. The Australian Health Ministers Advisory Council has got some fairly strong initiatives in place to try to improve this on a national basis.

Senator JOHNSTON—Do you think our committee should recommend that the Commonwealth stress at COAG the need not just to collect the data but to actively go out and seek the data in a sensitive, compassionate way?

Mr Banks—I think it is implicit in the fact that COAG have supported this report that they put emphasis on getting consistent and comparable data. At the beginning of the first report, and I assume in the second, we identify areas where we cannot really discharge that responsibility because the data is not good enough. So, in a sense, this report is already raising those issues. We could use whatever support we can get for concentrating minds about improving data because, as we have identified, without good, comparable data it really is very hard to discharge the function of this process.

Senator JOHNSTON—It surprises me that the ACT and the Northern Territory have no data on that particular aspect. The Commonwealth probably has more of a direct role there. It worries me that we do not have the data from the territories, which are probably more under our jurisdiction than the states. We are dropping the ball to a greater extent than, say, Tasmania. I say Tasmania because we can all relate to what Tasmania is like.

Mr Banks—That is right. It has a small-number problem but I think, as you say, in the Northern Territory that is not the case, although I notice that in the footnote we are talking about private hospital confidentiality arrangements, and I am not sure how much control we have over them. That may be a particular issue there.

Senator JOHNSTON—I think as a matter of health, commonsense says that private hospitals need to at least be approached about the need to collect the data and to go the extra mile to encourage people to participate in a voluntary way.

Dr Sheen—Can I just clarify something—we do not report on private hospitals.

Senator JOHNSTON—Is that a problem?

Dr Sheen—It is just that we are reporting on government services, so apart from some government funding data that are in the descriptive parts of the chapters there is no performance information here on private hospitals.

Senator JOHNSTON—I thought I saw some percentages where there were numbers in private hospitals—that is all.

Dr Sheen—Yes, we will report some descriptive data, but there is no performance data about private hospitals.

Senator JOHNSTON—What can we do to change that? Do we want to change it, firstly? It is a bit of the black hole; isn't it?

Mr Banks—There has been a debate about that. I think the rationale is that it is about government service provision and ensuring that governments can learn from each other with the information. The additional dimension of private/public comparisons may be a bridge too far for this particular report, given its origins. But, admittedly, over time, to the extent that the private sector assumes bigger responsibilities in these areas, it is part of the overall story. Simply in terms of getting the data, there are issues that arise with the private sector relative to the public sector.

Senator JOHNSTON—I saw the numbers. As I recall, they were very small. There were age breakdowns and state-by-state private hospital breakdowns and they were relatively small. I think they related also to cardiovascular problems and—

CHAIR—Diabetes.

Senator JOHNSTON—Yes. In the suicide evaluation on page 11.5 you say in the last sentence that the suicide rate for Indigenous people for the period 2000-02 in the jurisdictions for which data are presented in table 11A.4 is considerably higher than the rate for the total population in 2002. I have had a bit of difficulty trying to locate table 11A.4.

Dr Sheen—You do not have it.

Senator JOHNSTON—I don't have it?

Dr Sheen—No, is one of the attachment tables. We did not bring those with us. They are huge.

Senator JOHNSTON—I thought I had missed a page in the printout.

Dr Sheen—I am happy to send it to you.

Senator JOHNSTON—I would like to see that, if that would not be too much trouble.

Dr Sheen—Certainly.

Mr Banks—From notes I jotted down in terms of some of the things that stand out, some of the key disparities, I think we are talking about a factor of three. I do not have the actual numbers, but we are talking three times the average suicide rate for non-Indigenous people. We will certainly send you the relevant table for that.

Senator JOHNSTON—I would appreciate it. I was an observer at the Gordon inquiry. I was very pleased that the state commenced that. There were some, if I remember rightly, 93 recommendations—there might have even been over 100; it was a quite substantial number. You make the comment in box 15.1 on page 15.4 that the WA government has accepted the challenges posed by the Gordon inquiry and is developing responses. Have we had any further surveillance? I am very concerned that those reforms have stalled. What can you tell me about them?

Mr Banks—We spoke to Sue Gordon just after she completed that inquiry—I think it might have been just prior to her report being released—

Dr Sheen—No, it had already come out, because we had the report in front of us.

Mr Banks—So we were familiar at the time with the work she did, and the information that she had for WA actually helped us in terms of the other report that I talked about on *Overcoming Indigenous Disadvantage*. The extent to which those things have been picked up I guess is more a matter for the WA government than for us. We have simply tried to describe the process that occurred there and some of the key findings. We have not ourselves monitored the extent to which those recommendations individually have been picked up.

Senator JOHNSTON—Are we going to do that into the future? Given the nature of the work that you have undertaken here, I would like you to, but I do not want to lead you to something that you cannot do or do not have the capacity to do. What worries me about that is that I think the inquiry's findings are representative particularly of the Northern Territory, Queensland and South Australia. That is a great concern to me and I am sure other members of this committee. They just simply have not undertaken the review or the inquiry.

CHAIR—New South Wales has just started.

Senator JOHNSTON—Yes, and I think the findings are going to be rather similar. We need to surveil WA to make sure that these recommendations are adopted and so that at COAG we can make the comment and so that we can follow through on the other states.

Mr Banks—I think the way in which these reports would be helpful to that is slightly less direct in the sense that we would be reporting performance information for WA and other states and some of the implications of that would flow through into whether the sorts of actions are working. We are not really constituted to be a reviewer of policy developments in individual

jurisdictions. It is more at that higher level of providing a bit of transparency about outcomes and what has been going on.

Senator JOHNSTON—I looked through this, but could not find it. Did you review the project on Palm Island? I visited Palm Island last year where I observed the 21 houses being constructed, the dentists doing all the dentistry, the fixing up of the beachfront and all these things that went with the ATSIC-Army Community Assistance Program, AACAP. Did you have a look at how that is working? Are you aware of it?

Mr Banks—I am not familiar with it. Are you, Robyn?

Dr Sheen—No. It is relatively new.

Mr Banks—Where we would have come across it if we had had the opportunity I think would have been in some of the consultations we have done with this other report, an important part of which is looking at governance arrangements and ways in which communities have addressed some of the issues.

Senator JOHNSTON—They do a bit of that too. As a matter of future reference, I think that getting a handle on that project would be a good thing. It is a good project but it has not been benchmarked. When I looked at it it looked great. When I spoke to 30 or 40 Aboriginal men they told me it was a good project and they were happy and they all wanted to go off and join the Australian Defence Force. But I am not just sure that, firstly, the houses, which looked great to me, have stood up to the wear and tear. Palm Island is a classic example. A whole lot of these projects are going on in the Northern Territory and in the north of Western Australia and it would be good to know how things have gone over time.

Mr Banks—I think that it is fair to say—and now I am speaking more broadly—that there have been a lot of very interesting innovative policies introduced all around the country. The problem has been that there has been no central repository of information—

Senator JOHNSTON—Correct.

Mr Banks—to assess what is going on and what seems to be working.

Senator JOHNSTON—This is the best that I have seen.

Mr Banks—We have got this report, which is providing one cut on it, and this other report which, over time, will have case studies that we will develop to give a sense of that. Quite often, the most successful experiments are the ones where Indigenous communities have a say in what gets done rather than having things imposed on them.

Senator JOHNSTON—That happens. This project does do that. There is a consultation period where the community leadership sits down and plans what is going to be done and what can be done and what participatory role there will be—unemployment is huge on Palm Island—and all of that is sought to be addressed for a duration of about three to four months while the construction phase goes on. They are doing sewerage and water supplies in communities in north-west Western Australia and there are roads, health, housing, schools—all that sort of

stuff—and it gives the Army engineers and the other agencies within Army particularly an opportunity to function in a remote region, providing their own water, electricity, power et cetera. It is a very good mutual project and I think that it works magnificently, but I would like to know whether it does in fact—

Mr Banks—We will certainly look into it.

Dr Sheen—Before you finish—if you have a copy of this report—there is a section on suicide and self-harm.

Senator JOHNSTON—What report is that?

Mr Banks—This is the second report that is specifically about indicators of Indigenous disadvantage.

Senator JOHNSTON—It is the one that I asked for and I got this 205—

CHAIR—That is going to look like that so—

Dr Sheen—No.

CHAIR—It isn't going to look like that at all?

Dr Sheen—It is quite different. The one that we have sent you is a compendium of all the data that is in the blue book and it refers to the delivery of services, whereas, this other one is about outcomes.

Mr Banks—Exactly. This is just a summary with nice pictures in it to make it more accessible to a wider community—

CHAIR—That is the one that the media has.

Mr Banks—I can understand the confusion because there are overlapping data in the two reports. When we put the blue book report out the media picked up on a lot of the Indigenous information that was in there.

CHAIR—But the blue book was for everybody, wasn't it? That was your standard process—

Mr Banks—That is right. That is the standard mainstream services report. The second edition of this one is coming out in May. This one is just about indicators of Indigenous disadvantage. It includes some of the other indicators but it is focused on that. If you need copies of that report, we would be very happy to send them to you and obviously we will make sure that you get copies of the new report that comes out in May. It is the most comprehensive array of data that I think is available on this issue of Indigenous disadvantage. It has been organised and focused in a way that should be helpful to government in terms of targeting key areas and then understanding whether they are making a difference over time. The idea is to produce regular reports over a sufficient period so that you can see over time whether things are getting better.

CHAIR—And their annual—

Mr Banks—They will be coming out about two-yearly.

CHAIR—I thought that they would have to be somehow—

Mr Banks—Because of the data problems and so on you would not probably have the improvements occurring sufficiently rapidly to justify an annual report. But it will come out regularly.

CHAIR—What is the methodology for gathering this data? It must be enormous.

Mr Banks—Robyn is the expert on methodology, so I will let her talk to that one. By way of introduction, perhaps I should say that a lot of the data we get comes from the Australian Bureau of Statistics or other data collectors. Often our role is to put it in a comparable form and so on. The actual methodology of getting particular indicators is something that we draw on the experts for. The broader issue of the methodology behind this report had its origins in, I think, the Ministerial Council on Aboriginal and Torres Strait Islander Affairs, who came up with the framework for indicators of disadvantage, with headline indicators and strategic areas for action. That has evolved over time. We talk about it a little bit in this report. Which aspect are you particularly interested in—how we collect the data?

CHAIR—It is a monumental task when you are dealing with various data sources. What is your role? What do you do?

Dr Sheen—There are a number of aspects to it and, when you look at any of them, they are quite different. When you look at any of them you have to include the process as part of the methodology. The process for us is, first of all, to sit around the table with people from all the jurisdictions—we have nine jurisdictions—and get agreement on what we are going to report on. Principally, we are trying to look at an agreed and common set of objectives for each service and then come up with a set of performance indicators that are going to tell government something about whether or not they have been effective and efficient in delivering those services. In many ways, that is what separates us from other reports: to a large part they are performance indicators, and we report on performance and try to do it on a comparable basis. Feeding in all those things makes a report that has different values in some ways to other reports.

Once we have agreement around the table as to what we are going to report in the indicator frameworks—the objectives—the issue is clearly, 'Do we have the data?' Preferably you do not include something when you do not have the data already or there is not a supply. If there is not a ready supply from a data provider like the ABS or the AIHW, we might create our own data manual, come up with data definitions and accounting rules, and get the data directly from the jurisdictions. However, in order to go down that path you need a great deal of commitment from the jurisdictions. Either way, you have to have the agreement around the table.

CHAIR—That is a longer term thing too, isn't it? If you were in the position of having to obtain the data and set up a collection process, it would be down the track. You would not be able to do that straightaway.

Dr Sheen—Yes and no. If you are getting the data directly from the jurisdictions, one of the advantages is that you are probably going to be able to report more recent data. The data providers like the ABS and AIHW—this is another thing that sets them apart from us—are, in a way, much more concerned about data quality than we are. We are not unconcerned about data quality and we certainly do not want to publish anything that is likely to mislead policy makers on the sorts of directions they might take. Having said that, we will publish imperfect data if it is current and has credibility, with caveats, because we believe that is what gives governments the value in having this report.

CHAIR—Do you need the approval of the jurisdiction before you can do that?

Dr Sheen—They provide it. We create a data manual—

CHAIR—So inherent in them giving it to you is that they are prepared to wear it with the caveats?

Dr Sheen—That is the methodology. We write the manual, we do the collection sheets and they have to return them. There is a certain amount of peer pressure involved, again, in them doing that. It is what drives it in a way.

Mr Banks—When we put the table out that has four jurisdictions with comparable data and the others without, it does create a certain pressure to fill in the gaps, as Senator Johnston has identified. Also, the way the review is constituted is that we have a steering committee which has senior officials from central agencies, from Treasury or Premiers' departments, and they provide some useful discipline on the different portfolios and line agencies to get their act together and produce data where they have not. So they can bring a whole-of-government perspective, whereas quite often a line agency, naturally enough, will take a line agency perspective and may have its own reasons for not providing data relating to education or health or some other area.

So that is another way, over time, of creating pressure to get better data. But, ultimately, as I said at the start, we have these working groups beavering away that do contain line agency people, so they bring the expertise that you need to have credible data. Hopefully, by the time we put it in the report at least it is agreed and credible, although from time to time some governments will not like the way the press reports it and will say that there are problems. But generally the data is seen as being credible.

Dr Sheen—We can also create some pressures on jurisdictions to improve how they are collecting data. One area in particular that is very significant with respect to Indigenous people is the schools data. If you look at either of these reports, you see that we can report school retention rates; that is okay. We can report participation rates; that is okay. But until you can report actual attendance, you cannot say whether those kids are turning up to school and really pinpoint what the problems are. So part of what we try to do in areas like that is to keep the pressure on so that, while we cannot do it now, in the future we will be able to report attendance, particularly for Indigenous children.

Mr Banks—That is a good point, because attendance should be pretty easy to record in a way that is nationally comparable. Sometimes the data is collected but collected in a way that does not allow it to be compared.

Dr Sheen—They do it differently.

CHAIR—It is an ongoing interest area, but how do you actually judge how it is going?

Dr Sheen—That is how our methodology can drive the change. If we can get them to agree to count in the same way and to define things in the same way, then you are setting up the basis upon which—

CHAIR—The future assessment.

Dr Sheen—That is correct.

Senator JOHNSTON—Do you foresee that an attendance sheet in each classroom would have the names of all the students and then somehow identify those that are from a non-English-speaking background or Indigenous? Are we going to do that? That would be the ideal, I suppose, but wouldn't we get to the point where that was pretty impractical?

Mr Banks—Where it gets sensitive, for example, is if you are a kid who has just arrived from another country and you are battling with English and every day you are recorded as being in a special category.

CHAIR—Egyptian or something.

Mr Banks—Yes, exactly. It starts to cause a problem. But I think there is sufficient agreement around the country that education is so important for Indigenous kids, and there is such an issue about getting them to school and keeping them interested.

Senator JOHNSTON—So we would try to do the Indigenous data collection.

Mr Banks—Yes. I think that should be done. It is being done, but it is not being done well enough. That is the problem.

CHAIR—Is this process expensive in terms of the resource intensity?

Mr Banks—In a way it does involve a lot of resources. I guess the question is whether it is worth while. A lot of the resources who are involved are people who are working with the data on a daily basis. So the additional demands on their time may not be huge, but, as I said, there are a lot of people involved in the process. The steering committee meets two or three times a year for one day and the secretariat of the review within the Productivity Commission is always asking for more resources.

Dr Sheen—We are not.

Mr Banks—But they have about 15 members of staff working around the year. So that is quite significant.

CHAIR—Is that for the whole process or just the Indigenous component?

Mr Banks—The 15 would cover both.

Dr Sheen—I manage both.

CHAIR—That is what I thought. So it is not separate.

Mr Banks—So it is significant, but it is also worth while. I think the fact that, for example, COAG asked the review to embark on another fairly intensive activity shows that there is a need for this kind of comparative data.

CHAIR—Are there any Indigenous people working in the unit?

Mr Banks—Yes, we have one.

CHAIR—That is a positive result in itself.

Mr Banks—Yes. Within the unit we have one person who is Indigenous. With the process of the Indigenous report, we also have consultants who are Indigenous who are helping us with that work. Indeed, even without them, we have a lot of ongoing consultations with Indigenous communities and people, which has been a very important part of the process. As you would know, in this area you can never say the consultation is finished; it is an ongoing process and it will continue to be ongoing. We have had very good feedback from Indigenous communities. One of the reasons why we produced this colourful summary was that people would find it relatively accessible.

CHAIR—It is less daunting than the draft document.

Mr Banks—You could drop the summary on your toe without too much damage.

Senator JOHNSTON—Do we have some copies of the summary?

Mr Banks—You should have, but we can make more.

Dr Sheen—To expand on something that Mr Banks said about having someone on our staff who is Indigenous, I would just like to point out that she was hired because she is really highly qualified. She is in no sense a token member of staff; she is very highly qualified.

CHAIR—This area has been reviewed and re-reviewed over many years, and one of the issues has always been to have people effectively trained and working in the area so that Indigenous people are not being reported on but are part of the reporting process and that they have the skills and the team component to do that.

One of the key recommendations of the review of ATSIC—and we will be hearing later from people who were involved in it—was effective data collection and in particular the methodology used by the Productivity Commission was preferred. I do not know whether those involved in that review spoke to you about that, but they have said that the work of the Productivity Commission is the way that the reporting of whatever happens should be done. I think that is a positive thing. They had no particular need to specify that.

In many of the areas in which we work, credibility of the data is questioned at regular times. The poor old bureau of stats gets a regular going over by just about every agency. I note that you use a lot of ABS data. Is there trouble with the ABS data? Does it look at the things that you are after? It is a wide question but it is very important as it is the key statistical collection and publishing agency in the country.

Mr Banks—We would probably have different cuts on this. At my level I have meetings with Dennis Trewin, who heads the ABS. It is clear that, at the very highest levels in the ABS, they are seized of the need to improve data and to do a good job in this area. They have been incredibly cooperative. They are sitting on our Indigenous working group for this other report. I think Robyn was saying that we had a contingent of ABS people over with us just the other day going through the data. So there is very good cooperation and very good motivation to improve the data. They have a colossal challenge because a lot of the data that people are most interested in is administrative data over which they may not have a lot of control.

Also, the database itself, as you would be aware, is like shifting sands. Even the population data and the extent to which people are identifying themselves as Indigenous is changing over time. When you are looking at the incidence of various things the base is actually changing, which makes it very hard to get trend data. Whether that has been a particular problem in the past and whether we might be plateauing in terms of the demographics or the population data, I am not sure, but it has been a real bugbear. That is why it is very hard to look at trend data or time series data and draw any conclusions. One of the things we are trying to do now is to establish at least a base for making comparisons in the future, particularly through this second report, *Overcoming Indigenous disadvantage*. Again, without good data it is very hard to understand whether policy is having an effect. Robyn probably has some other angles on this issue.

Dr Sheen—I am not going to say too much although I could talk about this all day. The ABS have done some wonderful work with us and for us, but I think there are a couple of things that are worth saying briefly. First of all, I think that they are under considerable pressure. The more interest there is in data, particularly Indigenous data, the more pressure they are under to make sure that the data are credible and reliable. There seems to be a lot of revision of previous data now on the basis of work that they have recently done, and that does create some difficulties. They want to produce very polished data but the issue then becomes: when can we say anything? But they are a very professional organisation. What we try to do is find the middle ground. I think that that is a real issue. I think that there are some real challenges too. I will not go into all of them, but one example would be household equivalent income. When you are trying to calculate household equivalent income for Indigenous people as opposed to non-Indigenous people, those sorts of—

Senator JOHNSTON—It is a very culturally diverse figure.

Dr Sheen—It certainly is. I think that they have a very difficult job. Part of what we have to deal with in working with them is: how much can we say once we have got through all the caveats? You do not want to out-caveat yourself.

CHAIR—You have more page for the caveat than for what you say.

Dr Sheen—These are real issues. But I work with them very closely, and I would not be critical of the ABS. They are an organisation doing their very best.

Mr Banks—It is probably true to say that there is a cultural difference. I think all the incentives on the ABS are to produce accurate data and get it right, even if it takes some time, whereas the incentives for the steering committee are to publish or perish; to get information out there in the public arena and to create debate and, indeed, pressure for better data to be produced. Where we try to be careful is in not fooling people about the quality of the data, so the caveats and the footnotes are important. We will not put data for different jurisdictions in the one table if it is not comparable data, and things like that. But we will put the data in.

CHAIR—It is too easy to misrepresent. As soon as you have a graph, people start using it. That is a given.

Mr Banks—That is right—particularly the press, and they do not read footnotes.

CHAIR—And they do not read books that big either.

Mr Banks—That is right.

Dr Sheen—That said, some data, even if it is not perfect yet—

CHAIR—can show a trend.

Dr Sheen—If it is timely, it can give you some information. Even if it is not all the information, it can tell governments things that help them to look at what they need to do.

CHAIR—Are the people in your team statisticians?

Dr Sheen—No. Actually, that is not true.

CHAIR—But they do not need to be statisticians?

Dr Sheen—At present I have about three people who have come from the ABS, so they have worked in a statistical agency. Some of the people are economists. The Indigenous woman we mentioned earlier is a lawyer.

CHAIR—So they have some element of statistical awareness of analysis but they do not to have to be professional statisticians to work on your team?

Dr Sheen—No.

CHAIR—Did the team visit remote areas to see what they are like? Is it all done from an analysis point of view or do you actually have the chance to go and see what your figures are doing?

Mr Banks—Members of the steering committee in their jurisdictions would be doing that. Robyn and I and Robert Fitzgerald, who is a commissioner with us—you might remember him as a former President of ACOSS; he has taken an interest in this work—

CHAIR—You would never have quiet times if you have Robert on your team!

Mr Banks—I think the three of us have even been caught in a photo in Alice Springs or in Wadeye. The three of us have done that, but the members of the team have tended not to do that. We have done that partly to talk to people in Indigenous communities about the work and what they think of it and to test some of the indicators with them. It has been at that level, rather than the detailed methodology level.

Senator JOHNSTON—So where exactly have you been? Alice Springs? We have been to Alice Springs.

Mr Banks—We have been everywhere.

Dr Sheen—Thursday Island, Port Keats, Wadeye.

Mr Banks—We have also been, obviously, around all the capitals. In Victoria we went out to the East Gippsland area and met a number of communities there. We have a plan to do more of that over time.

Senator JOHNSTON—A lot of the places that you really need to have a look at are small and inaccessible. You have to weigh up the resources available, the time and the travel schedule, which takes literally weeks out of your time—especially to go to some of the places in Western Australia because it is two days travelling just to get to Perth and then you have to plan when you are going to go and all that jazz. The central reserve area is most inaccessible, as I am sure you know. Have you been to the central reserve?

Mr Banks—We were invited to go. Did you end up going with Robert on that second trip?

Dr Sheen—No, we have been up to Central Australia a couple of times, but we have not actually been outback. There is an intention to do it—

Senator JOHNSTON—So Docker River, Blackstone, Tjirrkarli, Warburton and Giles are the sort of places that you need to walk around and see how the delivery of services is working—or not working as the case may be.

CHAIR—Have you done any work with the ATSIC regional councils in terms of the fact that they were the focus for a lot of the structural implementation of processes within the ATSIC group? Did they ask you to come and talk to them about how this thing works and what the intent is to get that credibility?

Dr Sheen—We have had a couple of meetings with Alison Anderson from ATSIC. She was very interested in this project.

Mr Banks—We have also talked to Kim Hill separately. It has tended to be more talking to some of the former ATSIC commissioners on location. We obviously briefed all of the ATSIC commissioners at their council meeting in Canberra. We went through the report and had a discussion with them lasting a few hours with a cup of tea in the middle. So we have had quite a lot of feedback and that has been quite helpful. In terms of the working group on the second report, we had ATSIC representation on that.

Dr Sheen—I went on my own and talked to all the regional councillors in the Northern Territory. We have had meetings with the regional councillors in Victoria—Robert and I did that. So, where possible, we have met the regional councils.

Mr Banks—But your point is right; it is quite a challenge to do that kind of consultation well. Part of it was, as we found, that often you would turn up expecting persons A, B and C to be at a meeting but in fact none of them are there and you will have persons E, F and G turn up. So you have to keep a certain level of flexibility.

CHAIR—That is not peculiar to Aboriginal communities.

Mr Banks—No, it is not. We found that.

Senator JOHNSTON—I should not leave you with the impression that only the central reserve and outback remote regions are important. Redfern obviously has to be visited. You have to spend a lot of time to see what urban people are saying and doing. To some extent that is an even greater problem because they are semi-integrated, and that presents, to my understanding, a whole host of different challenges for us. It is not an easy task to come to terms with all the frontiers that Indigenous affairs present to public policy.

CHAIR—Is the contract that you have with COAG at the moment annual or is it for the future?

Mr Banks—It is really not time bound. It has been a remit that we have received—initially for the blue book, which, as I said, started in 1993. There are terms of reference for that which we include in the front. For the indicators of Indigenous disadvantage, the requirement on us is to produce a regular report. As I said, we have interpreted 'regular' as every two years in order to make sure we have sufficient advances, data and so on to make it worth while. Presumably both of those are ongoing mandates that we have.

CHAIR—Certainly when that one came out there was significant media and community interest. There was a large amount of coverage and a large number of questions being asked. So in terms of a process it not only collects information but also stimulates future action, which I think is valuable.

Dr Sheen—One of the important things about that one, and why it got so much support from the Aboriginal and Torres Strait Islander people, was that it was seen to be a report card and that it was something that government was going to have to come back on in a couple of years—

Senator JOHNSTON—A benchmark.

Dr Sheen—to see how well we have done in the past couple of years. I do not know what your impressions are, but that was one of the most powerful messages that it had for Indigenous people.

Mr Banks—It would be fair to say that we had to convince a number of them that yet another volume of statistics was going to be worth while, but when they realised that it had COAG endorsement, that it was about strategic areas for action and it was going to have the scope to monitor periodically what was going on in terms of outcomes, they became quite enthusiastic. A lot of data is very disparate. It is hard to find information in a coherent way in one report. So that has been helpful. I think Indigenous communities see it as an ally in terms of their representational activities with government to be able to refer to an authoritative compendium of statistics.

CHAIR—Is there any good news out of this process? We have been through the statistics and a lot of them show some variation. It would be nice for the record if we had a good news story.

Mr Banks—I think there are some good news stories.

CHAIR—We would like it on the record. A lot of what we have heard so far in this committee has not been good news.

Mr Banks—The same request was made in an interview I did with the ABC. I thought it was interesting that journalists were looking for good news stories as well.

CHAIR—A slow day.

Mr Banks—It might have been a slow day. However, in terms of the indicators of school retention there are some signs of improvement.

CHAIR—And it is everywhere, isn't it?

Mr Banks—Yes, which is reasonably robust. The problem is that with all that noise and the dialects sometimes you cannot really tell, particularly over a couple of years, whether things have become better or worse. However, that area has improved, subject to the problem with attendance rates and so on. At least the headline retention data have been improving. If there was one thing that came through with all the consultations we had, it was how much importance Indigenous people attach to their kids doing well at school. That is very important. There may be other stories that Robyn can cite.

Dr Sheen—The juvenile detention rate is improving—going down. Just on the basis of what we have done with the *Overcoming Indigenous Disadvantage* report, there are some signs that governance throughout the country is starting to move forward in many areas and we are starting to see good governance arrangements being put in place. A lot of people would argue that good governance in a lot of communities and organisations, and I am not just talking about rural remote here, is going to be a key factor in turning around a lot of problems.

Mr Banks—We are all learning that imposed governance arrangements do not work. That is most starkly illustrated at Wadeye, Port Keats, where there were so many different groups all

brought together under alien governance arrangements which did not work and which were probably a big part of the problems in that area. They have now been doing exciting things, as you would know, through the Thamarrurr council, and we are going to try to document some of that in the next Indigenous report that is coming out in May.

CHAIR—One of the key things to happen over the last few years has been the COAG trials that have taken place all over the place. We have not seen a review of them yet. They have been started and talked about with great fanfare but, as of today, I am unaware of any—

Senator JOHNSTON—No.

CHAIR—Has there been any discussion with your group about looking particularly at the COAG trial sites or is it left entirely up to you to choose how they fit into your study of disadvantage?

Mr Banks—We have a certain amount of discretion with that, and I think Wadeye is a case in point.

CHAIR—Wadeye is often mentioned as it seems to reflect so many issues.

Mr Banks—It does and therefore it is a good one. We can say that it is a success story at least in terms of how the governance arrangements are working. We went to have a look at that. We have not systematically gone to those sites and this is a separate exercise.

CHAIR—Yes, it is. People are unsure how they are going to measure the effectiveness of the trial sites which is the start of the whole-of-government approach and all those things.

Mr Banks—In a sense, our work will provide some perspective on that but probably not detailed enough to understand whether things have got a lot better in one of the particular trial sites. I agree with you: I think that how that is monitored and reviewed is going to be a very important part of the process.

Dr Sheen—We do know that many of the jurisdictions have embedded this framework into their reporting arrangements and these are now being picked up in some of the trial sites. Some of them—not all of them—are very high level outcome indicators, and so it is clearly not going to be easy to measure life expectancy in Shepparton, for example. In terms of measuring what is happening in respect of some of those strategic change indicators in that report, it is going to be possible. I understand that that is what they are trying to do. They are certainly trying to do it in Shepparton and I know that they are trying to do it in Murdi Paaki too. So it is spreading: I cannot speak about the other trial sites, but that is certainly the framework that they are looking to adopt. As far as I know, though, there is not any monitoring or evaluation that has been agreed yet.

CHAIR—That is as far as I know as well. We all agree that it is going to be and that it must be, but we are not quite sure how.

Dr Sheen—That is right.

CHAIR—There are so many questions—you could go on for days. But I have one other question: you have your methodologies for promoting your reports and people accessing reports and asking questions to the commission—do you have any record of how popular this particular document was, how many people wanted copies of the report and how many people were asking about it?

Mr Banks—We do track the use of a number of our reports. In terms of providing an account of the use of that we would have information on distribution, we would have information and distribution and so on.

Dr Sheen—The largest request came from the regional councils. The ATSIC regional councils came back time and time again asking for copies of this overview report. That was a very strong indicator of success: they were getting out into the communities.

CHAIR—Which is good. Also, the format you chose to do that one in was more accessible. Thank you so much for coming and joining us—we do appreciate it.

Mr Banks—Thank you, and good luck in your deliberations.

Senator JOHNSTON—There are more of us, but they are all very busy at the moment.

CHAIR—Yet another report!

Senator JOHNSTON—Don't read anything into that!

Mr Banks—Thank you.

CHAIR—You have got a little bit of interest amongst some senators with those reports at the moment, too; a lot of people have read them.

Mr Banks—If you need any hard copies of the report just let us know and we will send them over to you. At the very least, with this one, because it is so accessible, we would be quite happy to send some your way.

[1.21 p.m.]

HANNAFORD, Hon. John, Convenor, Aboriginal and Torres Strait Islander Commission Review Panel

CHAIR—Welcome. I want to put on the record how grateful we are that you have been able to join us. We appreciate the effort that you had to make because of our schedule being disjointed. You are an experienced witness. The committee was reappointed on 17 November. You know that it is an ongoing committee. We have had public hearings and we have accepted public evidence. We have gathered here today for the fourth hearing in Canberra. Before commencing, again I would like to put on the record our acknowledgement of the traditional owners. That should be done each time we have new people before us. You know about the provisions of in camera evidence. If you choose to give in camera evidence, it will be at your request. Would you care to elaborate on the capacity in which you appear?

Mr Hannaford—I emphasise that now that I am a Commonwealth public servant in a particular capacity, the views that I express in relation to this matter are mine—

CHAIR—Absolutely, and as a Commonwealth public servant you will be subject to the provisions of what we are able to ask you and expect you to answer. Would you care to make an opening statement?

Mr Hannaford—Thank you very much for the opportunity to speak to you. This is the first opportunity I have had to speak to anybody in government about the report. My colleagues regret that they are unable to be here. My colleague Jackie Huggins has made a statement available to you. She really does regret that she is unable to join me here today or to meet with the committee on some other occasion. As you said, it has been a disrupted series of meetings. I do not have a lengthy statement. I thought I should try to encapsulate where we felt we were trying to come to in relation to our task on the review panel. I will draw on a couple of statements that we made in our report. I draw first of all on page 73, where we said:

> The two organisations that preceded ATSIC—the National Aboriginal Consultative Committee ... and the National Aboriginal Conference ... —demonstrated that advisory power alone did not promote self-determination and did not meet the expectations of Aboriginal and Torres Strait Islander peoples.

We regarded that as a very fundamental statement. Unless we addressed what were the failings of the previous organisations—and what we saw were very clear failings of ATSIC—any future direction was also destined to fail.

The second statement in our report that I draw attention to is at page 36. It again underpinned where we were coming from. It is about point 3 on that page:

> Compelling evidence from around the world reveals that sustained and measurable improvements in social and economic well-being only occur when real decisionmaking power is vested in communities that build effective governing institutions reflecting the cultural values and beliefs of the people.

They were themes that underpinned where we wanted to go. The concept of centralisation of control, centralisation of direction—whilst it may be bureaucratically efficient and effective and provide appropriate levels of publicly accountable governance—does not necessarily meet the aspirations of the people that we are meant to serve, certainly is not going to provide the levels of respect which are needed for people of Aboriginal and Torres Strait Islander background and is not going to result in long-term effective change. So we were looking at how we put in place an organisation that was going to achieve that.

There were a lot of the models. We said in the report that there is no one model. One model could well be an appointed body. One model could be the centralisation of power, as occurred with previous models. But we took the view that was destined in the long term to fail. The traditional way in which governments—and, I have to say, in my view centralised governments—manage is by the triangular system of power. Government is at the top and government is devolving programs and directions down to the people it is meant to serve. We were wanting to try and turn that triangle on its ear, so that you were looking at the people clearly identifying and articulating their needs—which are disparate needs; there is no consistency—and then bringing that message down to those that have the resources which are capable of addressing them.

Part of the problem of governments, whether national or state governments, is that in developing programs they seek to develop a consistent policy framework out of which there can be an accountable delivery of resources. That results in there having to be a consistent set of rules which, for accountability reasons, have got to be met. That means that it is very difficult to adjust programs to meet the unique needs of disparate communities. We felt that by sustaining the approach of a centrally directed delivery of services, no matter how well-meaning it may be in the initial phase, it is only as good as the will of the minister, the will of the government or, more importantly, the will of the bureaucrats at the time who are administering discretionary programs. What we were looking for was a framework under which the parliament expresses an administrative direction under which people could operate with maximum flexibility. Maximum flexibility is absolutely essential in being able to deliver those programs that are needed for the disparate needs in the disparate communities that we have got. So that is essentially where we were trying to come from.

There is another thing that we were looking for here. It was not our role to look at what was going on at a state and government level. But the problems at a state and local government level were absolutely fundamental, because they are the major deliverers of services. Yet there was no real interaction with ATSIC. It had only just started to be phased in. Western Australia was more advanced than any other state in dealing with that.

What I said in one part of the report—and I guess it is more subliminal than direct because we did not want to make strong comments about the states—was that things that were happening at COAG and at the coordination level were certainly having success. I heard comment a moment ago about us still having to develop evaluation programs and that is certainly appropriate. We as a committee could not accept—and there may be an element of cynicism here—that in the long term a COAG concept of coordination of services was going to be able to be sustained right across the country in all of the areas where coordination is needed. The trials should be seen as lessons that can be learnt—and then introduced into a legislative or regulatory framework so that it works at a much lower level. That is where we were coming from. We made comments in the

report from about page 57 onwards about the views of the states. It was clear that the states were indicating a preparedness to come together to achieve some sort of coordinated working relationship.

CHAIR—The states and territories all submitted their views to you, didn't they, as part of your review?

Mr Hannaford—Absolutely every one of them. We acknowledged at page 59 at about point 8 that the review panel and its discussion paper canvassed devolution as one of the options for reform of ATSIC. It would not be unfair to say that devolution would be a most desirable direction. But that, as we say, can only be developed by all of the governments agreeing. We comment more on that on page 60—whether or not ATSIC should be involved in delivering programs and we make some partially negative comments on that.

At page 61 we talked about an alternative proposal which has significant Indigenous support in written and oral submissions in which they would deliver programs and some essential services. But that would require governments to come together under the COAG umbrella and saying, 'What is desirable for a new ATSIC is that you have not a multiplicity of organisations but agreed organisations that would interface at national, state and local government levels.' We were hoping that within the structure that we were advocating for the new ATSIC that that would be able to be encompassed. Our focus was very much about delivering regional councils with very flexible frameworks so that governments could then work to move towards the regional authorities—however you wanted to structure them—being able to legislatively interface with state and federal governments. The programs could be focused through there and their role would be to grow and enhance the communities and to try and encourage the establishment of the community structures. There are also issues of governance that are significant in that area.

At a regional level it is not necessary to retain regional councils the way we have them. What we said was in a sense, 'Keep that at the moment but allow the regions to develop their own framework for governance.' What you might want in Cape York or in Arnhem Land might be different to what you might want in the metropolitan regions. They can create their own systems of governance which the minister would be able to sign off on—much the same as the land councils in the Northern Territory have been able to do.

That helps give you some overview. I am happy to talk about particular issues. The underpinning of this is that there is no one answer to the direction of ATSIC but fundamentally the direction has to be about enhancing local communities and giving local communities a say in what they need and how the services should be delivered and, through that, a regional organisation that provides a framework for coordinating the voice of those community organisations into state and national programs. How you go from there to those regional organisations having a voice in some national representative body is a political issue. We have suggested some directions but that is for people other than me to comment on. We have certainly set our views down in the report.

Senator JOHNSTON—Mr Hannaford, thank you for coming along. The fact that there are only two of us here should not in any way reflect upon the earnestness with which the other colleagues, who are otherwise engaged today, are approaching their task on this term of

reference. I want to ask you a couple of things. Do you think it is too much for us to expect Aboriginal leadership to be objective and judicial?

Mr Hannaford—I would not join the terms 'objective' and 'judicial' together. Judicious, objective—yes, I think it can. ATSIC was, in our view, set up to fail. You were expecting more of that organisation, and the view generated in the community was that more was going to be delivered and there never could be. I use a comparison. If a local community tennis club, with people of limited skills and limited education, were given millions of dollars and asked to run the Australian Open you might get something there, but there would be a whole lot of failures in between.

Senator JOHNSTON—A lot of problems, a lot of organisation malfunctions and all sorts of dramas.

Mr Hannaford—That is exactly what has happened, in a sense, with ATSIC. A large amount was expected of them, when they did not have the capacity and skills to do it. Very little was put in place to ensure that they were given or could develop the skills. We saw the desire for accountability and appropriate governance absolutely manifest itself right across the country during the course of this consultation. A significant change had occurred in the elections for the regional councils. Some change had occurred at a national level but not, in my view personally, the significant amount that should have occurred. Can they be objective? Yes, I believe they can. But you have to put in place the governance mechanisms which allow them to resist the significant family pressures that are imposed.

Senator JOHNSTON—What are those mechanisms?

Mr Hannaford—You make certain that your administration—and you have to put it in the legislation; you have to set the rules out—is there under the control of the CEO. An elected body is like any other board. Its role is to determine policy and ensure that the appointed staff are accountable for that policy. That means, give them the skills and so on. I have been on a number of public boards. Some of the board members do not even understand that requirement. On each of the boards I have been on, we have sent them off to the Institute of Company Directors to get their skills developed. When they have come back, they have been different people.

Senator JOHNSTON—We did not do that. I think self-interest was often a guiding light. But, coming from where they come from and living through what many of them lived through in their formative years, I cannot bring myself to be critical of people for self-interest. That is the nature of their lives. We have given them the responsibility with no understanding or capacity to adequately fulfil those sorts of tasks.

Mr Hannaford—I think that comment summarises the reason why we said that ATSIC in its original administration was set up to fail. We tried to impose a Westminster system—a Western system—of administration of governance, without recognising that it would take a decade or more to ensure that the people had the skills to deal with it.

Senator JOHNSTON—Yet, I note that you did recommend the new ATSIC. Why did you think that things would be any different?

Mr Hannaford—I suppose one of the options would be what is best described as a 'big bang theory': just abolish it. We took the view that, at some stage or other, there was going to have to be an organisation that would be the voice of Aboriginal and Torres Strait Islander people.

CHAIR—Why?

Mr Hannaford—Because they want it. They absolutely want it. It is a mechanism for them to gain the respect that they are entitled to.

Senator JOHNSTON—Who are 'they'?

Mr Hannaford—Aboriginal and Torres Strait Islander people right around the country. There was not a group we met with that, in its comments, did not underline the word 'respect'.

Senator JOHNSTON—I can relate to that. You might be interested in this, if I could just intervene. I would like to have a discussion with you rather than a question and answer.

CHAIR—Yes. This is where we can do it today.

Senator JOHNSTON—We have been all over the countryside, pretty well. In our investigations, we have met with an enormous lack of response, outrage, upset, disappointment—a lack of all of that—over the demise of ATSIC. It has been: 'What's next? Let's move on. Who cares?'

CHAIR—That is not an absolutely agreed position.

Senator JOHNSTON—No, but I think there is an element of that. I was surprised by the level of acceptance.

Mr Hannaford—I think that, when we went around with our consultation, the level of anger towards ATSIC was palpable.

CHAIR—You actually said that very clearly.

Mr Hannaford—It was absolutely palpable. And I guess, to some extent, for some people, the announcement by the then opposition leader of the abolition of ATSIC was the needle that burst the sore. I do not think the fact that they have seen ATSIC as gone should be interpreted as meaning that they do not want something there that allows them to express their voice at a local level and to have it transmitted effectively through to state and federal governments. The question is: how best do you do that?

Senator JOHNSTON—Yes.

Mr Hannaford—Our view is that at some stage that would have to be addressed. When we prepared our document, we were taking the view: let us try to put in place a new ATSIC that would allow that to occur. One of the options was whether we should change the name of ATSIC. We debated that. But, again, we felt that people out there actually did like the concept of an Aboriginal and Torres Strait Islander council, so changing the name was not going to change

anything. We thought: let us just recognise that there were problems, try and identify what the causes of those problems were and then, within the framework of that legislation, advocate for changes which would alter the focus and advocate very extensive flexibility right across the board, so that you could adapt to change over time. That is why, in terms of the regional councils, we said, 'Look, there's problems. Put those in place but allow, at the local framework, for a move to be made by local people to put in place their own representative frameworks.' And they certainly would, in my view. That was the intention.

Senator JOHNSTON—I think that is laudable. In some sense I hope we get to that, but I think we have to sort a few things out first, if I can be so blunt.

Mr Hannaford—There are a lot of things that have to be sorted out.

Senator JOHNSTON—The other thing that concerns me in this, and I think you have touched on it, is the interaction with the states. I detect an enormous demarcation issue with state public servants, not just in areas of native title—for which I think they insist on standing on the hose, because I think ILUAs give an opportunity for proper negotiation that is just lying there, waiting to be taken up. That is not happening, because I think the public servants in most of the states, particularly Queensland and to some extent Western Australia, are reluctant to cede any control, power or rights. I think that also applies with respect to the federal government and the way we do things in managing Indigenous matters. In short, the states are lethargic on Aboriginal matters.

Mr Hannaford—I would go so far as to say that we formed the view that there was a major dysfunction.

Senator JOHNSTON—Yes.

Mr Hannaford—The states blame the Commonwealth, the Commonwealth blames the states, both blame ATSIC and there is no mechanism for proper accountability. For all of the moneys that go down to the states, the states are really not made accountable for the outcomes for which those moneys are given to them. We make some comment in our report about that. I notice that the government has announced that it is going to broaden the powers of the audit and oversight committee. As part of the contract delivering money to the states, that body ought to be providing some audit of where the moneys are going, whether they are in fact being delivered for the services that are intended and what outcomes are being achieved as a consequence of that.

I notice that you have had the Productivity Commission give a statement about its report. We make some comment in our report, because the Productivity Commission—I do not know if it has changed—was reporting on improvements at a state level. That is a very broad basis for identifying improvements in people's abilities. But take a state such as Queensland. When you do a state-wide analysis it can be really distorted. We have advocated to government that if you move to a regional model of funding with regional plans and regional outcomes being articulated, then the evaluation ought to be undertaken by the Productivity Commission at that regional level. You are then able to see whether real change is taking place within the diversity of the regions. In our consultations we understood that that was capable of being done and that it was a question of adding some more resources. But our view was that evaluations at a state level

were capable of distorting the real level of disadvantage in regional areas. We would hope that something would happen in that regard. That would require some state accountability, and some of the states might not be happy with that mechanism.

We also looked at how you can perhaps make the states accountable. The Senate, through its committees, is very effective. Some states have just started to develop the concept of committees. New South Wales is a bit further ahead than others. Other states have absolutely none. There is no mechanism for making anybody really transparently accountable for what is happening with outcomes in service delivery in some of these areas. Part of the framework that we were looking at was the possibility of audit and accountability at the regional level. One of the roles of the regions ought to be to provide a similar focus for accountability. The regions would not necessarily be running the programs, but the regions would be developing the plans that are necessary to meet the needs of the regions.

There would be a coordination factor. Look at COAG, with its programs, as a coordinator at the moment and look at how you move that down to a regional level. We see regional councils working with state, federal and local agencies, driving that coordination in the implementation of plans that they have jointly developed to focus on need. Then a body should be put in place, agreed at a state and federal level, with a driven accountability at that level. We felt that that was the only way that you would get real momentum. Transparency and accountability, driven publicly, are the ways in which the agencies of government are going to focus on what they are achieving at a local level, no matter how well meaning the politicians may be.

Senator JOHNSTON—In quickly reading your colleague Ms Huggins's statement to us of 18 February, I notice that she says that there was a disagreement between you and Mr Collins and her on the other hand with respect to the role and responsibility that women should have in terms of leadership with the broad framework and direction of the recommendations et cetera. One the things I have been fortunate to be able to do is go through the South Pacific, and it is a very interesting correlation that in Samoa, Tonga and to a much lesser extent Fiji the role of women in leadership means that those communities are doing far better than in the Solomon Islands and Papua New Guinea. That is a broad generalisation, but the strange thing is that I think there is a lot of credence in that. Why was there disagreement? Convince me why you think you are right.

Mr Hannaford—As to your initial observations, we would agree with you. That is from my own experience, from when I was health minister and developed what was called the last report—which has got something else you could say about it! The drive by women in the communities is very significant. The issue was in disagreement between us there was whether or not there should be a mandated fifty-fifty representation. That was the only disagreement. We looked at a lot of research of people getting elected, and that is why we made the comment in the report that where women had got together and campaigned and provided a focus on getting elected they actually got elected.

Senator JOHNSTON—There are more of them, because the death rate amongst the men is higher.

Mr Hannaford—It is also a question of getting them to come together and agree to campaign together. That is an exercise in itself.

Senator JOHNSTON—There are more of them.

Mr Hannaford—But again, as we also recognise there, there is the issue of them being available to participate. It is the women in the community who are expected to look after the extended family, Therefore, their ability to make themselves available for the national move to Canberra or the move to a region is very difficult. That is why we said that ATSIC needs to address these issues of how you provide support for those women who are prepared to make themselves available to participate at a regional or state or national level. That has got to be recognised. As you would expect, this is an issue on which there are diverse opinions from right around the country in every group that we met with. My recollection is that in the report we said we would have a mandated minimum number to ensure that that occurred, because in some communities there are absolutely none and never have been. But put that in place and then provide the program through which women are able to achieve and support them in wanting to achieve it.

CHAIR—I was particularly interested in that element about women's participation because it is one that has been investigated in the wider community as well, and I think the Aboriginal community has been learning from what we did right and wrong. But I know Jackie's views.

Mr Hannaford—Very strongly held views, and we have acknowledged that—that is the reason we made that specific reference in the report.

CHAIR—Since I have been on the committee we have been asking people about the concept of a voting process for ATSIC. It has come out in a number of ways in that the ATSIC legislation, which is the focus of our form of discussion, is taking away the nationally elected and regionally elected processes. What will replace them is not certain, and it certainly seems to me that one of the aspects of your report that the government has picked up is the need for flexibility in future arrangements—but we are not quite sure what is going to happen. The national and regional election processes for ATSIC members have caused all kinds of discussion. We have asked people openly about how they viewed the election process, how they felt about it being voluntary and whether people participated. It was quite interesting to see the responses. But, by and large, since I have been on the committee—which is only this year—most people have talked about having compulsory voting. One of the reasons people could look at the ATSIC process and say, 'It's not working and people aren't doing it,' was because of the fact that it was voluntary, although on the other hand there are other issues. In your report, which I know is the end result of large numbers of discussions, you came up with this statement, which I like:

> Regional council meetings were divided about the issue of compulsory voting.

From your position on the committee, what is your view?

Mr Hannaford—I think it would be fair to say that even that part of the report is a compromise in the view of the members of the committee.

CHAIR—Yes, I felt it would have to be.

Mr Hannaford—It is one of the issues that most vexed us. It is an issue that we felt had to be addressed and that we could not avoid, but we do not actually end up giving a final answer. The issue of Aboriginality is the initial issue.

CHAIR—Absolutely. There is a large section in there.

Mr Hannaford—It is a big issue, and the Tasmanian experience highlights that.

CHAIR—And the Islander group in Rockhampton—very dangerous.

Mr Hannaford—The fact that a lot of agencies of government adopt different tests magnifies the problem. That is the first issue. You need to find a way to deal with the issue of Aboriginality. You need a mechanism that is not confrontational or legalistic in order to have that tested. Today the only way you can test it is to go to court, and that costs a fortune. That is why we suggested altering one part of the test and saying 'accepted by the community'. We were aware in some areas of people who are clearly not Aboriginal but who have been adopted and are part of that remote community, so they fit the other tests in a sense but not that one. Again we felt that might have been a compromise. But, if somebody were to challenge it, how could you do it inexpensively? We avoided getting into that, I have to say.

CHAIR—You were talking about the concept of a clearly identified Aboriginal roll drawing racist attention to the people on that roll. I am sure this has come from experience, and I will ask you to outline that for us. If in a central level of authority you had a list of people in the community who clearly were identified as Aboriginal then that list could somehow be misused.

Mr Hannaford—And they were very strong views articulated to us by people in the community.

CHAIR—Was that a common view across Australia?

Mr Hannaford—Yes. People initially would come to us and say, 'We want mandatory voting.' As you said, we got the same message: 'We want mandatory voting.' But then when you started to talk through the consequences of that people started to say, 'We don't want that.' They wanted mandatory voting but they also wanted a roll that would not be used racially. The issue of racial misuse of the roll was of greatest concern in Queensland, the Northern Territory and Western Australia, from recollection. If that were able to be managed, I think that would be more favourably looked at. We felt that we had not addressed that adequately in the consultations to be able to take it further. Compulsion usually has an element of reprimand if you miss out. There was a very strong view that fining Indigenous people would end up making them feel like criminals. Others took the view that, if you said it was compulsory, people would observe the compulsion without the need for a penalty.

CHAIR—If you made it clear that there was a change.

Mr Hannaford—That is right.

CHAIR—Was there any discussion about the trust element with the AEC? The Australian Electoral Commission runs the elections now. Did anyone express concern about that?

Mr Hannaford—No, but I think it was a case of: once there is a roll are you ever able to really control it?

CHAIR—Senator Johnston was raising measurements with the people from the Productivity Commission, and one of the things we talked about was attendance at schools. If every child is identified, which in some ways they are because of other streams—with that whole area of identification, some people seek it and others are opposed to it—

Mr Hannaford—I did not have a chance to look at—nor did the rest of the panel and the staff—overseas models. We understand that such rolls do exist.

CHAIR—They do. Certainly we had evidence in Queensland from a person who has worked in the international arena and he referred to Canadian rolls.

Mr Hannaford—I think that if there were in fact a broad based debate on this—one of the comments in the paper was that ATSIC should embark on a program of debate on this particular issue—then the matter would be capable of resolution. In those areas where it is strongly expressed, they all had in their immediate experience strong levels of racial discrimination and vilification.

CHAIR—So not in history but in personal recent experience?

Mr Hannaford—They had a real fear that by putting out publicly rolls of people who had claimed Aboriginality you were going to provide a focus for the maintenance of those experiences.

CHAIR—So you would be a target?

Mr Hannaford—Yes. Is that capable of changing? I think that it is. But it is clearly the mood that is out there at the present time.

CHAIR—Within an environment where there is that lack of trust and fear, how do you build any structure that works?

Mr Hannaford—My view is that that is a debate that needs to be led by the Aboriginal and Torres Strait Islander people. It is not a debate that should be driven from a central level by people who are not of Aboriginal and the Torres Strait Islander origin. If they lead the debate and participate in the debate and frame of the debate then they will find their own solution. My view was that there was a desire out there to be given the opportunity if you had flexible frameworks to work these things through. But our legislation as it was framed was very inflexible. It created a framework in which everybody had to work.

CHAIR—And work in the same way. It is difficult when you are talking about legislation and how you to make legislation flexible and yet still have a funding arrangement which is equitable. The two need balancing.

Mr Hannaford—That is why in our report we took the view—looking at it in terms of an implementation mechanism—that you start out with your regions, as it is now, but give the

regions the power and the opportunity to generate their own frameworks. You might even mandate them to do that too within a particular time frame. Then they would come back and propose to the minister that we have this mechanism for achieving representation within our region that has majority support of the people within our region.

CHAIR—Ms Kelly just reminded me of an issue that we talked about once before in the committee. Just to get it clear I will ask her to ask the question. It is really difficult when you are trying to seek out an answer and we should get the question right.

Secretary—Doing research for the report, we looked at the Sami and the Inuit. In particular areas of Canada they have their own government and parliament house and funding from the Canadian government. Everyone in the area is allowed to vote whether they are an Inuit or not. The non-Inuit are the minority there but they are allowed to vote. Would that be workable, do you think?

Mr Hannaford—In some areas I think that it would. A lot of the remote areas of Queensland and the Northern Territory have their own local government frameworks at the present time. Within those local government frameworks I think the majority are Aboriginal and Torres Strait Islander people but I think that others are entitled to vote.

CHAIR—We will check that one out, because in Queensland they have just moved the local government arrangements from the very old communities to being part of the standard local government legislation. A place like Palm Island, that obviously impressed Senator Johnston very deeply when he went there, and a place like Cherbourg—

Mr Hannaford—You just have to go there to be appalled—

CHAIR—are now like local governments. So we will check that with those—

Mr Hannaford—I believe that some of those frameworks will operate.

CHAIR—But they may not work in Redfern.

Mr Hannaford—That is right.

CHAIR—And we always throw Inala in so we do not always pick on poor old Redfern.

Mr Hannaford—And they would not want that.

CHAIR—No, it would not be right.

Mr Hannaford—That is why, in the debate within the panel, we looked at how to do this. We said, 'Adopt flexibility and give the people within the regions the opportunity to reflect their own mechanisms.' Part of those mechanisms may well be to say that in this region—take the Northern Territory, which has now been broken up into local government areas—we have already got so many local government authorities, all reflecting the interests and needs of Aboriginals and Torres Strait Islanders in that area, that our local regional council could be made up of representatives of those local agencies. But it might also be that they want tribal interests

and traditional landowner interests to be reflected. Is that something that they can work out? The principle we are looking for was, as I said, to enhance people's capacity at the local level but then allow them to work out the best way in which to have a regional voice which would interface with state and national government.

CHAIR—Because there had been a public statement that the legislation was being framed to wipe out ATSIC—I always want to say 'kill', but it is the wrong term—people feel that it has happened. That may have affected what we got as a committee, but it has been a common theme in our public hearings since I have been on the committee that people wanted some form of independent elected voice, whether that was going to have the same structure as ATSIC or something else. It seemed to be a common desire. Did it come out in your process that they wanted that? I know that you have mentioned advisory bodies here. In the Moree, Queensland and Sydney hearings, people wanted to have this form of separate, independent, Indigenous, probably elected voice.

Mr Hannaford—I think we use the term 'representative voice', because how you get that representation is then a matter for people to determine in their own regions. It may be that in areas such as New South Wales, Victoria, parts of South Australia and Queensland the only mechanism that they identify as appropriate is the elected mechanism. Take New South Wales, for instance—a lot of those traditional voice mechanisms have disappeared. People might well want to have a marriage of the state land council voices—to bring them together to minimise that duplication and overlap. They might want to combine a land council voice, if it is within the area, together with some other mechanisms to ensure that there is a reflective voice on what is to be their representative body. No doubt you have had the same difficulty we had on this issue of how to gain a representative voice. Our traditional approach is elections, but we formed a view that that traditional approach was not applicable to the Indigenous communities.

CHAIR—Whose tradition?

Mr Hannaford—That is right. But you have to start from a point. That is why we took the view that we should start with the point that we have got here now but say to Aboriginals and Torres Strait Islanders, 'We respect the differences in the way you generate your voice, and therefore we would advocate to the government that you put in place a flexible framework which allows you to reflect what is appropriate and necessary for your region.'

CHAIR—Have you had a chance, Mr Hannaford, to hear or read the government's proposal for their new mainstreaming? There is an expectation that, through the changes that are going to occur, there will be a quite clearly new approach to mainstreaming, on the understanding that a lot of services have already been mainstreamed for a long time. A key element will be the need for a significant change of culture of the people who are delivering these services and of the whole of government—federal and state. There will also need to be some understanding that local government will have to be involved as well. This will give people an opportunity to receive better services and programs from government service delivery. Through all your consultations across the country I know people would have spoken about whether they thought they got value for money in their communities through the ATSIC process. Was there any discussion about the effectiveness of government service delivery generally to the communities? It is a long question.

Mr Hannaford—Mainstreaming was a model that we had to debate. I think it is implied in the report that we rejected it.

CHAIR—You have been very careful in the way the report is written, but I got that message.

Mr Hannaford—You are right in terms of having to talk about culture. It would require a very significant cultural change at all levels of government. Particularly in the consultations that we had with the agencies of government, we were concerned that we got almost an underpinning flavour that we know best. I guess because two of us had some political experience, we had a healthy cynicism about whether or not central agencies are best able to reflect the real needs of people at a local community level, particularly on a long-term basis. There may be a will and a desire at the moment, but that will and desire is only as strong as the people who are driving it at that time. We therefore looked for a structural change which was more likely to be capable of delivering on that direction, assuming mainstream came in, and that would sustain real change at a community level. So in the framework that we prepared we did address the possibility that mainstreaming could occur. It would counterbalance that, then, by having in place the structural measures that we had. It is on around page 58 and onwards. A part of mainstreaming was also a part of devolution. On page 60 it says:

The question therefore of whether ATSIC should continue to deliver its existing programs or focus entirely on its advocacy and policy role is an important one.

CHAIR— I have even got that marked—what do you know.

Mr Hannaford—It goes on:

Contributions to the review on this issue ranged from providing ATSIC with no programs at all, to providing ATSIC with total responsibility ...

... the first option is undesirable and the second option is unachievable.

On page 61 we talk about an alternative proposal and, at the bottom of the page, we make a recommendation. If a whole-of-government approach is to be taken, I would think our view is—but certainly I speak for myself—that it is only going to have long-term success if it is delivered through a program of total state and federal cooperation in a way which makes the states and local government totally accountable for the outcomes that are contracted to be delivered under the funds that are directed. You therefore need to minimise the duplication of agencies that deal in this area.

Again, part of the thinking that underpinned our new direction was that by bringing a regional focus in you would be negotiating, hopefully, at a COAG level for recognition for legislation that says, 'Across the country our focus will be on regions, and we are going to have proper levels of accountability at that level.' We talked about articulating the outcomes that you wanted from the finance and then the contracting to deliver on those outcomes—that is, agreeing upfront as to what are going to be the evaluation mechanisms. I heard the Productivity Commission say that we are still working on our evaluation on COAG. This, I fear I have to say, is part of the problem that I have observed in funding in these areas. A decision is made to fund, then they

make a decision afterwards. They say: 'What really are the outcomes that we want to achieve? Then we will try and work out an evaluation mechanism.'

CHAIR—And then we forget it.

Mr Hannaford—You really should be addressing those things up-front and saying to the people who are contracted to deliver a service, 'These are the outcomes that we expect from you and this is the evaluation mechanisms that are going to apply to you to see whether or not a change has been achieved.' In terms of the Aboriginal and Torres Strait Islander organisations out there, they welcomed that approach. They were very happy to put in place performance based contracts and to be funded on that basis. But they said, 'If you're going to do it to us, do it to everybody else. And make certain that state and local governments are made equally accountable so that you identify up front what you're trying to achieve with the funding. If you're going to fund us at a community level, give us as part of the funding the ability to develop the skills so that we can put in place the appropriate levels of governance. Don't give us money and set us up to fail.'

CHAIR—Yes, which often happens. Mr Hannaford, I need to put on the record your understanding of the process and the timing of the work you did, and the decisions made by government. When were you tasked with being on a review of ATSIC?

Mr Hannaford—I am sorry, you are really testing me now. I think I was approached before Christmas 2002.

CHAIR—So the review was conducted from December 2002 to December 2003.

Mr Hannaford—Yes, we looked at how it was going to be dealt with initially. I think the initial framework was that it was almost going to be a paper review. We put a proposal to the minister that that was not possible and that there had to be extensive consultations. I think the discussion paper was initially going to be out in three months. That was varied. I think we got it out in about July or August 2003. There was then a very tight time frame for submissions.

CHAIR—People were unhappy about how tight that time frame was.

Mr Hannaford—It meant that we were not able to have really extensive consultations on the discussion paper. I think I or the other panel members got to absolutely every regional council to get their views, and we met with some community groups and government agencies. It was a very tight time frame to produce a document by the end of the year. I have forgotten what date we actually reported on.

CHAIR—It was November 2003.

Mr Hannaford—Yes.

CHAIR—To whom did you present your report?

Mr Hannaford—It was given to Senator Vanstone as the then minister.

CHAIR—You said in your opening statement that you had not had a chance to debrief.

Mr Hannaford—I have spoken to no-one since then.

CHAIR—When you actually did the work, and when the committee was set up, was there any expectation of what was going to happen to the work that you had done? Always in government reports you put out a stream of recommendations and pass them to the area. Was there any expectation?

Mr Hannaford—No, there was no expectation. We were asked to independently look at it. There was no discussion with the minister about his expectations. We met with the minister, and the minister made it clear to us that he wanted us to look at what was going on and look at, in a sense, a new direction. So it was a fairly broad framework to look at functions and powers. When the new minister came on board, we had the usual meeting with the minister to inform the minister as to where we were at and to get an understanding of whether there were any expectations. We then finalised our report and the report was delivered within the time frame. I do not think we even personally delivered the report to the minister, as I recollect.

CHAIR—When you were doing your consultations, were you able to let the people who were giving you information know that this was an independent review and that there was no guarantee that what came out of it or what they said would end in a decision? A lot of these people are used to being involved in consultations—

Mr Hannaford—To the point where I think they are basically sick of it. There was a lot of cynicism about the consultation process. I know that to some extent we were criticised about the technique that was used in the initial consultations in order to get information through the consultative process. But the feeling I had—and I might be self-delusional but I think the other panel members had the same view—was that there was a real desire on the part of the consultative group to ascertain the real feelings of the people who were going to be affected and to have a real look at what was actually going on with something which they regarded as dysfunctional. I think it would be fair to say that the only people who did not think that ATSIC was dysfunctional when we started were the members of the ATSIC board.

CHAIR—I am interested in that because we have not spoken with the group. We have spoken with individual commissioners and so on. The people who were on the board did not feel as though there was a problem?

Mr Hannaford—I do not think that they felt there was a problem when we started. Let me give you an example. We met with a number of regional councils in Alice Springs and we used a complete consultative process, where all of the issues and the concerns of the members of the councils were put up on a board so that the ATSIC board could see what people were saying, rather than have one person speak for everybody. When they saw the vast array of issues and concerns that everybody there had, they said: 'Let's stop. We didn't realise that this was what everybody felt. We need to go and have a talk.' They went away and then put in their submission. I think that a lot of the board members were stunned by the feelings that were coming out from the regional councils as they sat and listened to what was happening.

CHAIR—It would be very confronting.

Mr Hannaford—We got the impression, and made the comment, that we thought there was a significant disconnect between the board, the regional councils and the communities, to the extent that there may not have been much connection at all. That is part of the problem of a centralised electoral process and a centralised way of providing power. That is the reason I said that we wanted to turn the triangle around and that the real power had to be with the people. If you start centralising power then you get the disconnect, and that is a significant problem in this area.

Senator JOHNSTON—I put this to Mr Clark. I said to him: 'When the government resolved to abolish ATSIC, one would have expected, given the long time that ATSIC had been on foot, that it would have accumulated a store of political goodwill somewhere with some party. The Labor Party accepted that you would be abolished. The government has driven it. Your regional councils are not really upset. How is it after so long that your board, your council, has not really got a friend in the world who is prepared to go to the barricades to preserve you? Everybody wants to talk about the new representative body but they are not too keen to defend the old body.' He sought to answer that, but it was not a proper answer. In fact, I think the answer reflected the disconnect.

Mr Hannaford—And, as I said, a disillusionment. Remember that there were elections in the middle of this, or just before it.

CHAIR—Yes, there were. That was another issue about the timing.

Mr Hannaford—A lot of very impressive people were elected, and I think that they were starting to go through a transition. Some very impressive people were elected to the regional councils. But the angst was indelible.

Senator JOHNSTON—That is right.

Mr Hannaford—How you deal with that is a different issue.

CHAIR—Did any members of the advisory group set up to look at ATSIC contact you when the decision was made by government? Were you notified that this was going to happen, that this was going to be the government's decision? Did you get a thankyou letter?

Mr Hannaford—I do not know.

CHAIR—Can you check that?

Mr Hannaford—Can I be asked not to? I have actually packed everything in boxes and put them into—

CHAIR—I think the three members of the committee all have similar lifestyles. I will ask the minister but then I will not be able to check it out because the three of you will not know whether you did or not.

Mr Hannaford—I learnt about it in the media and I contacted somebody in the minister's office to indicate that because I now held a public service position I would think it inappropriate to comment.

CHAIR—You could not make a public statement.

Mr Hannaford—No, because it was a policy decision that had been made.

CHAIR—I think Bob was already in hospital and Jackie was in a similar kind of advisory committee. One of the statements made to this group in three of our hearings has been words to the effect that the decision to abolish ATSIC was an overreaction to something that could have been handled by an administrative process. They were focusing on one of your recommendations as to how people can be removed from office—a process that is quite clearly set out. In Brisbane, Moree and Sydney people made the comment that there were problems in ATSIC but all organisations have problems and this one could have been handled by identifying the problems and fixing them. The decision to abolish the organisation and leave uncertainty about the future was an overreaction to the issues that have been raised. You said angst was expressed at different levels and you have been very diplomatic about the behaviour of senior elected officials—there are a couple of comments there. Was there any evidence given to your committee about concern about the public behaviour of elected officials and how that reflected on organisations?

Mr Hannaford—There were a number of senior, well-respected leaders of the Aboriginal community—I say Aboriginal and not Torres Strait Islander—who would have supported the big bang approach to abolish it and to have an appointed body instead. That was a very strong approach by senior leaders and former leaders. Did it surprise me when it was announced? To some extent I regret to say that there was a political element. When the then Leader of the Opposition on the Monday announced that ATSIC would be abolished—that was the way it was reported—I knew there and then ATSIC was dead because the government was left in no position to be able to move towards a phase to change, which was the approach that was being taken in this report. There was, therefore, no opportunity for an informed debate on the direction and principles that underpinned this particular document. ATSIC was no more. I have heard various comments about where cabinet minutes might have been in terms of implementing the report; I do not know the truth of any of that.

CHAIR—And no-one will know.

Mr Hannaford—But I have not the slightest doubt in my own mind that the fate of ATSIC was sealed when the then Leader of the Opposition announced that ATSIC would be abolished.

CHAIR—People in the community have also expressed that that is what they thought. They felt that once that statement was made it was unlikely the government would be then defending ATSIC considering the years that have led up to that.

Mr Hannaford—They could not be seen to be defending a form of ATSIC. For me, in looking forward, it is now not so much the issue of the announcement of the abolition of ATSIC but what is the way forward in empowering the communities to feel that they are respected, that their culture is respected, that their needs are respected and that they are meaningfully

incorporated in the process of decision making. In some documents I have read the government has talked about partnerships. Partnerships in my view are very important—we have referred to it in here—but real partnerships arise only where there is equality of power in the partnership. If you are in a mendicant role there is not true partnership.

CHAIR—How many people can be partners, because you have the community and levels of government?

Mr Hannaford—This is where we were looking at it in terms of the sort of structure we were putting there—putting organisations in positions of authority, where you could contract to deliver a service, but you would have people who could articulate and negotiate for them if that were needed. You would have a regional group to interface with state and federal governments, being in a position to talk as a voice for people, so that there was somebody that the community groups could turn to to help them be an advocate if they did not feel that they were able to effectively advocate. I would expect that the community groups in a partnership will be contracted to deliver services where traditional government agencies are not being contracted to deliver services. Mainstreaming is fine if you just want to send your money down and hope that it hits the spot, but in this area you have to target your moneys so that you can identify the outcomes that you want to achieve in particular communities or groups of communities. You are not going to get real change without doing that. Some of the things that I have seen announced are really commendable in trying to do that. For example, there is the uproar about the funding in Western Australia.

CHAIR—If Senator Ridgeway were here, and he really wanted to be, you would have had questions about your opinion of the Mulan trial, but I am pleased you raised it.

Mr Hannaford—If that is what they want then you negotiate a partnership. The government wants something and they want something. For them, that is part of being able to gain the respect for their needs. It might not be what the people in Toorak or St Ives might want, but it is certainly want the people out there want because it meets their immediate needs.

CHAIR—It is getting a firm partnership rather than a mutual obligation, because the mutual obligation concept has a sense of punishment.

Mr Hannaford—A partnership has its mutual obligations.

CHAIR—But it has positives as well.

Mr Hannaford—If you move on a partnership then you negotiate your partnerships, articulate your needs and see where that fits within the priorities, and this is part of the problem. If you have government programs, you have to get people to fit into them, so it distorts real change at what you might call the ‘street level’.

CHAIR—It is also about working out who has the authority to form the partnership. Even though the old model had its flaws, at least you could say that a particular group was elected by whatever process you used, and there was some status. Community leadership is such a nebulous role.

Mr Hannaford—Again, part of what is reflected here is that one of the roles of the regions would be to work to establish those responsible roles at the various community levels.

CHAIR—'You have the right to be a partner.'

Mr Hannaford—Yes, and to negotiate what should be a representative community group for those particular groups. There might be a different framework in different areas. It is not for non-Aboriginals to be telling the Aboriginal and Torres Strait Islanders how their leadership should be reflected. It is something that they want to be capable of negotiating for themselves, with an appropriate leadership group working with them to help them to achieve that.

CHAIR—Given that—and I know you are a visitor here and that is why I am asking this—what about the dry community process, which has been a reaction of some organisations to the domestic violence investigations in Queensland and Western Australia? The dry communities have been negotiated between some members of the community and the state government, with laws being developed so that communities do not have access to alcohol. The communities are deeply divided. Some of the people in the communities feel as though that decision has taken away self-rights. I am still struggling within myself as to what the appropriate response is. But this one is critical.

Mr Hannaford—Again, that is a question of respect for their needs. Enable them to put in place the leadership framework to make those decisions. It does not immediately come to mind but what registers about that is that there were some communities that wanted that for a long time and the state government would not allow it to occur because it did not fit within what was regarded as the political framework of the time. But now it is happening. When I spoke to them, I said, 'Respect our views. If we're wrong then our own communities will deal with us in the same way that communities deal with other representatives who are elected at a local, state or federal level.'

CHAIR—Chuck them out.

Mr Hannaford—We will deal with it within our own framework if you respect our different cultural ways of selecting, appointing or electing our leadership.

CHAIR—And make it flexible.

Mr Hannaford—And make it flexible.

CHAIR—I could go on for days. It is just a shame the opportunity is not there. On the role of the Torres Strait, I know that your report has made comment about that. For the record could you tell us about this? We created ATSIC because of the role of the Torres Strait in the various processes and bodies. I know people talk to your committee about their views on that. What was the consensus?

Mr Hannaford—The Torres Strait model, in my view, is a very good model. In some ways it is a reflection of a state and federal partnership because the members on the authority reflect the local government structure.

CHAIR—It is a local government thing. Yes.

Mr Hannaford—But there is an element of inflexibility. If you go up there to Seisia and others among the five townships—two of the townships are Torres Strait Islander townships; the other three are Aboriginal townships—the disparate nature of those five townships is in my view mind-boggling. A couple of the townships are models of rural townships anywhere in Australia. Yet within a kilometre it is disappointing. In our report we comment on the inflexibility of the boundary and about allowing some decisions to be made by the people themselves as to where and how they would like to be placed. There are cultural issues up there that we know exist and people have wanted to walk away from those. But they exist and you cannot walk away from such things. Inflexible boundaries do not allow people to sit down and communicate about them. When people have raised the issue, they have said, 'This says where you are'—

CHAIR—The act says that, yes.

Mr Hannaford—'And that's it. And therefore there is nothing for us to discuss.' In some parts of the report we subliminally used the experience of the leadership that you see in the Torres Strait Regional Authority. That is something that could be developed outside of that in terms of a regional structure but you have to reflect the culture. In terms of the TSRA, we deliberately made that comment about allowing flexibility by allowing the review committee—that is the boundaries review committee—to have a role in saying whether there should be any change. That change would at least put on the agenda, and get people up there talking with each other about, the appropriateness of their own relationships.

CHAIR—Thank you Mr Hannaford. We really appreciate your time and cooperation. Was there anything you wanted to add? We have grilled you for a while now.

Mr Hannaford—No, that is fine.

CHAIR—I could go on for a lot longer, but that would not be fair to you, to the secretariat or to Hansard. We will be bringing down a report in early March. Senator Johnston has been attending Senate estimates hearings today. Mr Hannaford, if you are interested, I think it would be useful to look at some of Dr Shergold's speeches and statements on this issue, because his evidence to the committee on the future of mainstreaming reflects many of the things you have said. It is just about making sure that the rhetoric is reflected in what action comes out of it. Thank you for your time.

Committee adjourned at 2.40 p.m.