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SENATE

STANDING COMMITTEE ON FINANCE AND PUBLIC
ADMINISTRATION

ESTIMATES

(Budget Estimates)

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**SENATE STANDING COMMITTEE ON
FINANCE AND PUBLIC ADMINISTRATION**

Wednesday, 23 May 2007

Members: Senator Fifield (*Chair*), Senator Forshaw (*Deputy Chair*), Senators Boyce, Carol Brown, Fierravanti-Wells, Moore, Murray and Watson

Participating members: Senators Barnett, Bartlett, Bernardi, Boswell, Bob Brown, Carr, Chapman, Conroy, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Heffernan, Hogg, Joyce, Kemp, Ludwig, Lundy, Marshall, Sandy Macdonald, McGauran, McLucas, Milne, Nettle, O'Brien, Parry, Payne, Robert Ray, Ronaldson, Sherry, Siewert, Stephens, Trood, Webber and Wong

Senators in attendance: Senators Mark Bishop, Boyce, Bob Brown, Chris Evans, Faulkner, Fierravanti-Wells, Fifield, Forshaw, Moore, Murray, Nettle, Sherry, Watson, Webber and Wong

Committee met at 9.01 am

FINANCE AND ADMINISTRATION PORTFOLIO

In Attendance

Senator Minchin, Minister for Finance and Administration

Senator Colbeck, Parliamentary Secretary to the Minister for Finance and Administration

Department of Finance and Administration

Executive

Dr Ian Watt, Secretary

Mr Philip Methven, Executive Officer

General

Mr Jonathan Hutson, General Manager, Corporate Group

Mr Ian McAuley, Branch Manager, Parliamentary and Corporate Support

Mr Michael Hirschfeld, Branch Manager, Strategic Partnerships

Ms Philippa Crome, Branch Manager, Human Resources Services Branch

Ms Helen Roden, Senate Estimates Coordinator

Mr Glenn Black, Senate Estimates Coordinator

Ms Louise Heath, Senate Estimates Coordinator

Mr Dominic Staun, General Manager, Financial and e-Solutions Group

Ms Kym Partington, Branch Manager, Chief Finance Officer Unit

Outcome 1

Dr Paul Grimes, General Manager Budget Group

Mr Lembit Suur, Division Manager, Industry, Education and Infrastructure Division

Mr John Ignatius, Division Manager, Social Welfare Division

Mr Peter Saunders, Division Manager, Government and Defence Division

Ms Jackie Wilson, Division Manager, Budget Policy and Coordination Division

Ms Trixie Makay, Special Adviser, Budget Group Review Implementation, Budget Group

Ms Donna Phillips, Branch Manager, Budget Coordination Branch

Mr Tim Pyne, Branch Manager, Budget Analysis Branch
Ms Rosemary Deininger, Branch Manager, Environment and Agriculture Branch
Mr Joe Roach, Branch Manager, Defence Capability Assessment Branch
Ms Nicole Lamson, Budget Group Point Person
Ms Kathryn Campbell, General Manager, Financial Management Group
Mr Mike Loudon, Division Manager, Financial Framework Division
Mr Marc Mowbray-d'Arbela, Branch Manager, Legislative Review Branch
Mr Colin Plowman, Director of the Office of Evaluation and Audit
Mr Michael Culhane, Acting Division Manager, Superannuation Division
Mr Alan Greenslade, Branch Manager, Future Fund and Red Tape Branch
Mr George Sotiropoulos, Branch Manager, Superannuation Policy Branch
Ms Sandra Wilson, Special Adviser, Superannuation Division
Mr Brett Kaufmann, Acting Division Manager, Financial Reporting and Cash Management
Division
Mr Matthew King, Acting Branch Manager, Financial Reporting Branch
Mr Tony Olliffe, Director, Financial Reporting Branch
Ms Hawari Badri, Branch Manager, Cash Management Branch
Ms Jane Cureton, FMG Point Person
John Grant, Division Manager, Procurement Division

Outcome 2

Mr Simon Lewis, General Manager, Asset Management Group
Mr Robert Butterworth, Division Manager, Shareholder and Asset Sales Division
Mr Rick Scott-Murphy, Division Manager, Property and Construction Division
Mr John Grant, Division Manager, Procurement Division
Mr Duncan McIntyre, Branch Manager, Procurement Implementation
Dr Guy Verney, Branch Manager, Special Claims and Land Policy Branch
Mr Mark Heazlett, Branch Manager, Telstra 3 Sale Branch
Mr Timothy Kok, Asset Management Group Point Person

Outcome 3

Ms Jan Mason, General Manager, Ministerial and Parliamentary Services
Ms Kim Clarke, Branch Manager, Entitlements Policy
Ms Carolyn Hughes, Branch Manager, Client Services
Mr Ken Sweeney, National Manager, COMCAR
Mr Greg Miles, Branch Manager, Entitlements Management
Mr Greg Smith, Ministerial and Parliamentary Services Point Person
Mr Brett Quester, Director, EOIT, FeSG
Mr Stephen Taylor, Manager, Legal and Contracts Branch, Ministerial and Parliamentary
Services

Outcome 4

Ms Ann Steward, General Manager, Australian Government Information Management Of-
fice
Mr Patrick Callioni, Division Manager, Australian Government Information Management
Office

Mr Michael Dupe, Branch Manager Investments and Enabling Projects Branch

Mr Peter Alexander, Acting Branch Manager, Online Service Point Branch

Australian Electoral Commission

Mr Ian Campbell, Electoral Commissioner

Mr Paul Dacey, Deputy Electoral Commissioner

Mr Tim Pickering, First Assistant Commissioner Electoral Operations

Ms Barbara Davis, First Assistant Commissioner Business Support

Ms Gail Urbanski, Assistant Commissioner

Mr Andrew Moyes, Assistant Commissioner

Mr Kevin Bodel, Director Funding and Disclosure

Mr Phil Diak, Media Director

ComSuper

Mr Leo Bator, Chief Executive Officer

Ms Michelle Crosby, Deputy Chief Executive Officer, Internal Services

Mr Marcus Markovic, Deputy Chief Executive Officer, Information and Technology Solutions

Ms Emily Canning, Chief Financial Officer

Australian Reward Investment Alliance

Mr Steve Gibbs, Chief Executive Officer

Mr Peter Carrigy-Ryan, Chief Operating Officer

Commonwealth Grants Commission

Mr John Spasojevic, Secretary

Mrs Catherine Hull, Assistant Secretary

Mr Philip Parkins, Director, Corporate Services

Future Fund

Mr Paul Costello, General Manager, Future Fund Management Agency

CHAIR (Senator Fifield)—I declare open this meeting of the Senate Standing Committee on Finance and Public Administration. The Senate has referred to the committee the particulars of proposed expenditure for 2007-08 and the particulars of proposed supplementary expenditure for 2006-07 for the parliamentary departments and the portfolios of Prime Minister and Cabinet, Finance and Administration and Human Services. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has fixed 6 July 2007 as the date for the return of answers to questions taken on notice.

The committee's proceedings today will begin with its examination of the Finance and Administration portfolio and it will continue tomorrow along with the Human Services portfolio. I propose to proceed by calling on the outcomes and outputs in the order listed on the agenda. Under standing order 26 the committee must take all evidence in public session. This includes answers to questions on notice.

I remind all the witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as contempt. It is also a contempt to give false or misleading evidence to a committee.

The Senate by resolution in 1999 endorsed the following test for relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has resolved also that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given a reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim. I welcome Senator Colbeck this morning and officers of the Department of Finance and Administration. Senator Colbeck, do you wish to make an opening statement?

Senator Colbeck—No.

CHAIR—Dr Watt, do you wish to make an opening statement?

Dr Watt—No, thank you.

CHAIR—We will commence with consideration of the Department of Finance and Administration outcome 3, Ministerial and Parliamentary Services.

Senator WONG—I have some questions first about the use of electorate offices. It is the case, isn't it, that members of parliament are not permitted to use their electoral offices for commercial purposes?

Ms Mason—That is correct.

Senator WONG—Where is that stricture laid out? Presumably there are some guidelines. I seem to recall reading them somewhere.

Dr Watt—I think there are some guidelines. It goes to the nature of the entitlement.

Senator WONG—Yes, because the entitlement is for electorate purposes.

Dr Watt—I think you are there ahead of us.

Senator WONG—I do not think so.

Ms Mason—That provision comes from the Parliamentary Entitlements Act 1990 in relation to facilities being provided for parliamentary or electorate business.

Senator WONG—Does that mean that it would be inappropriate, for example, for an office to be used as a contact point for a private business operation?

Ms Mason—That is correct.

Senator WONG—Were you aware early this year of media reports which indicated that a particular member had listed her electorate office number as the contact point for a private business?

Ms Mason—Yes.

Senator WONG—Can you tell me what action, if any, was undertaken by the department as a result of that?

Ms Mason—My colleague Stephen Taylor can help you with that question.

Mr Taylor—I think that matter you refer to was the subject of an allegation under the protocol for considering allegations and was dealt with under that protocol.

Senator WONG—I am not sure what you mean by ‘allegation’. My recollection is that there was a newspaper article which listed the electorate office telephone number—is that not correct?

Ms Mason—Allegations may arise from various sources—media coverage, our own systems and letters; they can come from a range of sources. When they come to our notice, they are dealt with in accordance with a protocol that was tabled in parliament in, I believe, 1998—is that correct?

Mr Taylor—Yes. It was tabled on 31 October 2000.

Senator WONG—Yes, I am familiar with that.

Ms Mason—Under that protocol, if there is an allegation it may be dealt with by writing to the relevant senator or member and seeking their comments on the allegation. For a more serious issue, it may be considered by a high-level departmental committee and, if warranted, referred to the Australian Federal Police for further investigation. This one, I believe, was dealt with by writing to the relevant person seeking their comments.

Mr Taylor—That is correct.

Senator WONG—Was there a resolution?

Mr Taylor—There was a resolution of that particular matter.

Senator WONG—Are you able to tell us what the resolution was?

Mr Taylor—It has been the practice in this area—

Senator WONG—If it is not appropriate for it to be disclosed, that is fine. I was just wondering about it.

Mr Taylor—It has been resolved.

Senator FAULKNER—How was it resolved?

Mr Taylor—There are two essential processes involved. Under the protocol, there is a distinction between relatively minor matters and more serious matters. Relatively minor matters are dealt with by the Special Minister of State writing to the relevant senator or member seeking an explanation and then considering the explanation provided by the senator or member.

Senator FAULKNER—In this case, the Special Minister of State wrote to Miss Jackie Kelly—is that correct?

Mr Taylor—That is correct.

Senator FAULKNER—Seeking an explanation?

Mr Taylor—That is correct.

Senator FAULKNER—Was an explanation forthcoming from Miss Jackie Kelly?

Mr Taylor—It was.

Senator FAULKNER—Are you able to say, or perhaps Senator Colbeck can indicate, whether the Special Minister of State and the MAPS division is now satisfied that the cause of this concern—running a clothing business out of the member for Lindsay's office—is now concluded, in that the breach is no longer occurring? Is that right?

Senator Colbeck—My understanding of the situation is that the minister considered the advice that came from the member and decided to take no further action.

Senator FAULKNER—Thanks for that. That is helpful, but can we be satisfied that the cause for concern has also been addressed? It is one thing, whether or not you take further action. This government have never been keen to take action against coalition members and senators, and I am not making any comment about that. I am not surprised that they are not taking any further action, and maybe further action is not appropriate. The substantive issue is: has the cause for concern been addressed? That's a different matter. If you can confirm that that is the case, we can move on.

Senator Colbeck—That is the case.

Senator FAULKNER—Thank you. So, in other words, a clothing business is not being run out of Miss Jackie Kelly's office.

Senator Colbeck—There is no clothing business being run out of Miss Jackie Kelly's office and there never was.

Senator WONG—'There never was.' You added that bit.

Senator Colbeck—An allegation was made by Senator Faulkner.

Senator FAULKNER—No. I did not make any allegation at all, I am sorry. All I know about this is what I read in the media. I have not rung Miss Jackie Kelly's office at any stage of my life, nor do I ever intend to, and I certainly did not ring a particular number to get a T-shirt or shorts featuring the Australian flag and under the label Wear Australian. That is what was reported in the media. It is nothing I am aware of apart from reading a number of media reports. Let us not be silly.

Senator Colbeck—That is correct. I am saying that a clothing business is not being run out of a member's office and never has been. Just because a media report gave a phone number, this does not indicate that there was. As the officers have indicated, the Special Minister of State wrote to the member asking for an explanation, an explanation was given and it was accepted by the Special Minister of State, and no further action was taken.

Senator FAULKNER—You say that—and that is fine. The reason I asked the question is that AAP general news wire story No. 7575 of 7 February 2007 at 5.23 pm reported this:

In a front page story in local newspaper Penrith Press this week, Ms Kelly announced she was launching a clothing line called Wear Australian, with garments carrying the national flag.

People wanting to contact the Liberal backbencher about the business were given her electorate office's number at the bottom of the newspaper article.

Mrs Kelly told the paper she was investing with a girlfriend to produce the clothing.

That is why I asked the question; it seems perfectly reasonable in those circumstances—and I am sure that is why Senator Wong asked the question. You can just confirm that that is not occurring and that is fine. We will move on. So I assume you are saying that the report in the newspaper and in AAP was wrong.

Senator Colbeck—My understanding is that the member did not provide her office phone number to the journalist as part of the process. That was added by the journalist, as occurs, and that was part of the explanation provided to the Special Minister of State and accepted by the Special Minister of State.

Senator WONG—Senator Colbeck, I appreciate that you are representing the minister here and you may not have had the opportunity to be fully briefed on it. Frankly, I would have moved on, but you have made some comments in your answers which do not accord with our understanding of what occurred. You are correct that the *Penrith Press* carried an article which included the electorate office number at the bottom. The statement that was reported in the media that Miss Kelly issued was this:

... in a statement today, Ms Kelly corrected the newspaper contact details ...

She later told AAP she had simply forgotten Ms Farquhar's—

that is, her business partner's—

mobile, so gave her electorate number instead.

That does not quite accord with the answer you gave, which, as I understood what you were asserting, was that the number was added by the journalist.

Senator Colbeck—That is the advice that I have been given. That is why I gave it to you. You have obviously got information that Miss Kelly has put on the record. But I still confirm the advice that I gave earlier, that not only is there not a business being run out of Miss Kelly's office but there never was, and the intention to portray that there was did not exist. The fact that that was portrayed as part of a media story does not necessarily mean that there was. I can understand you reading a media story and asking a question—I think that is quite legitimate. But, as I have said, the Special Minister of State asked a question of Miss Kelly, Miss Kelly responded to that and the Special Minister of State decided to take no further action.

Senator WONG—Given the public disclosure of these issues, I think we need to clarify exactly what occurred. Is it the case that the number was added by the journalist or is it the case, as Miss—

Senator Colbeck—My advice is that—

Senator WONG—If I could finish, Parliamentary Secretary: is it the case that the journalist added the number or that, as Miss Kelly is reported to have said, she gave it because she forgot the number of her business partner?

Senator Colbeck—My advice is that it was as I said. You obviously have information that differs from that—

Senator WONG—It is actually what was on AAP.

Senator Colbeck—If that is what Miss Kelly said, I am happy to concede that that is what Miss Kelly said.

Senator WONG—In any event, regardless of how it occurred, as a matter of principle it is not appropriate for members of parliament to give out electorate office numbers as the contact details for private businesses.

Senator Colbeck—I think everybody would agree that that is the case.

Senator MOORE—Ms Mason, I just want to clarify the process. You talked about the range of things that could be covered. Who has the delegation for determining what is relatively minor and what constitutes something serious? It is quite straightforward: the action that is then taken is determined by what has happened. Is that an internal or a ministerial delegation?

Ms Mason—It is not so much a delegation but a function that is performed within Ministerial and Parliamentary Services Group. When issues come to our notice, we look at them and determine whether or not they appear to be relatively minor, in which case we would brief the Special Minister of State. The Special Minister of State would then, if he agreed with our proposed course of action, write to the person and seek comments. If we considered it to be a potentially more serious matter, I would then consult with the secretary and potentially refer it to a high-level departmental committee to consider the facts and determine whether or not the matter should be referred to the Australian Federal Police in accordance with the protocol, after first consulting with the secretary of the Attorney-General's Department.

Senator MOORE—So it is a recommendatory and internal assessment rather than a delegation?

Dr Watt—That is correct.

Senator WONG—I turn now to the budget measure in relation to the additional staffing position.

Dr Watt—Which document do you wish to work from, Senator?

Senator WONG—I am happy for you to tell me. I have Budget Paper No. 2 open, but do you want to take me to where this is in the PBS?

Dr Watt—Budget Paper No. 2 is fine by me.

Senator WONG—That is because it is the easiest one to work off, generally. But there is more information in here, so maybe I should look at this one.

Dr Watt—I think you will find there is probably more in Budget Paper No. 2.

Senator WONG—That is a concession about the way in which you prepare your PBS, Dr Watt, and the high level at which you aggregate expenditure so that opposition senators cannot work out what your program-level expenditure is!

Dr Watt—Not at all.

Senator WONG—I think Senator Murray would agree with me on that.

Dr Watt—It is the difference between the head document and the ability to put things very late into a PBS.

Senator WONG—When we get to that part, I am going to ask you how the financial performance framework is being met.

Dr Watt—We can come back to that later.

Senator WONG—We will come back to that later. In terms of budget bids et cetera, remind me what the process is. How long before the budget is put in place do departments have to bid for extra expenditure?

Dr Watt—There is no one process for including new policy for announcement in the budget, but the most common process is for ministers to write to the Prime Minister with bids, usually in October; for those bids to be considered by a group of senior ministers in November or December; and for the bids that those senior ministers want to see coming forward to be put together in a portfolio budget submission which is lodged in February, considered by the Expenditure Review Committee in March to early April and then considered by budget cabinet in mid to late April, depending on the year. That is the most usual process.

Senator WONG—Was this process followed in respect of the additional resources for members of parliament staff?

Dr Watt—I would have to refresh my memory and defer to Ms Mason on that. If I remember the process correctly, it was initially part of SMR bids—

Senator WONG—SMR bids?

Dr Watt—Senior ministers' review bids, which are the October letters. At the same time the Special Minister of State wrote to the Prime Minister on the subject and the Prime Minister agreed prior to consideration by the ERC.

Senator WONG—Prior to consideration by the ERC?

Dr Watt—Yes.

Senator WONG—When did the Special Minister of State write to the Prime Minister?

Ms Mason—That was on 16 November 2006.

Senator WONG—When did the Prime Minister determine to agree to that request?

Ms Mason—On 10 January 2007.

Senator WONG—Was a formal bid lodged in accordance with the normal process?

Dr Watt—A formal bid was lodged in the sense that you had a bid brought forward by the minister as part of the senior ministers' review process. It was agreed that that bid would

come forward. The subsequent letter of the Special Minister of State constituted a formal bid, but, based on what was in that letter and because a decision was taken prior to the ERC consideration, there was no bid in the Minister for Finance and Administration's ERC submission. So it was a different sort of formal bid.

Senator WONG—That is the senior portfolio—that is, the portfolio which encompasses SMOS?

Dr Watt—Yes.

Senator WONG—So the Prime Minister made a decision to grant the additional staffing allocation outside of the normal budget process?

Dr Watt—Outside of the most common budget process. Normality is a bit more of a judgement.

Senator WONG—Nothing went through the ERC?

Dr Watt—Nothing went to ERC. But remember that ERC does not meet until March.

Senator WONG—And the decision was made well before that?

Dr Watt—As Ms Mason said, the Prime Minister responded to the Special Minister of State in the first half of January.

Senator WONG—So it did not go through ERC?

Dr Watt—It did not go to ERC. It did not have an opportunity to go to ERC. It did not have a need to go to ERC. The decision had been taken.

Senator WONG—How many other bids go through that sort of process—where the minister simply asks the Prime Minister and gets a tick-off?

Dr Watt—A number. I would not know of a number here, but it is not uncommon. The ERC process has never been meant, either under this government or under previous governments, to be the only arbiter for policy decision making.

Senator WONG—We know that, because we had a \$10 billion water plan you barely saw, Dr Watt.

Dr Watt—As I said, it is the most common but not the only arbiter.

Senator WONG—Did the decision of the Prime Minister extend to both recurrent and capital funding?

Ms Mason—Yes.

Senator WONG—And was the decision in the terms of the budget measure at page 199 of Budget Paper No. 2?

Ms Mason—Yes.

Senator WONG—What evidence was provided by the Special Minister of State to justify the increase?

Ms Mason—I believe it is not common to detail the advice that may have been given.

Senator WONG—Has the department undertaken any studies as to increased workload in electorate offices?

Ms Mason—No.

Senator WONG—Has the department undertaken any research or analysis of the impact of new technology in terms of electorate office workload?

Ms Mason—There was nothing specific to this particular measure, but I think there is information that has been covered at previous estimates that suggests that the workload for electorate offices has increased over time and the expectations of people interacting with electorate offices by email and so on has grown exponentially.

Senator WONG—The circular from the Special Minister of State indicates that there is no increase to the ESA or relief staff budget or staff travel budget as a consequence of this decision.

Ms Mason—Correct.

Senator WONG—But there is a capital funding component in the budget measure. I assume that is additional funding to deal with the physical infrastructure of housing another staff member. Is that right?

Dr Watt—We will check that for you.

Ms Mason—Certainly electorate office accommodation was a component. We would need to check whether there were any other capital components there.

Senator WONG—Can you check that?

Dr Watt—In fact, I am looking now at the measure—

Senator WONG—Fit-out, relocation and minor refurbishment of electorate offices. Can you disaggregate the 12.1?

Dr Watt—Can I refer you to page 199 of the budget papers—

Senator WONG—I am on page 199.

Dr Watt—to make sure that we are the same. It includes related capital funding for fit-out, relocation and minor refurbishment—

Senator WONG—Yes, and I have just asked—

Dr Watt—We will see if we can disaggregate that for you.

Senator WONG—How much is for fit-out, how much is for relocation and how much is for minor refurbishment?

Dr Watt—We will see if we can disaggregate that for you.

Senator WONG—Do we just hold our breath or will you come back?

Dr Watt—I would never encourage anyone to hold their breath. It is bad for you.

Senator WONG—One hopes we have grown out of that, although some people may not have.

Dr Watt—We will get back to you as quickly as we can.

Senator WONG—Thank you. Do I understand from that capital measure that it is implied that there will be some upgrading of electorate offices in order to enable a new staff member to have facilities?

Ms Mason—Yes, Senator, and my colleague Mr Miles can probably assist you with that.

Mr Miles—M&PS state managers have been in contact with electorate offices to see what assistance was needed to accommodate an additional staff member. The requirement varies from office to office because, as you understand, the practice has not been to simply provide a desk and facilities for three staff members. There are generally additional facilities to accommodate relief staff and those sorts of things. The need will differ from office to office. The result so far has been that there are three electorate offices where it has been established that accommodation, at the moment, simply is not enough to deal with an additional staff member.

Senator WONG—Across the country?

Mr Miles—Across the country.

Senator WONG—And whose are those electorate offices?

Mr Miles—The member for Canberra—SMoS has approved the acquisition of additional space in that case—and we have identified both the member for Reid and the member for Lowe. We will be seeking agreement for additional space for those two offices. In one case, at least, that will probably be relocation.

Senator WONG—And the nature is a contact by the M&PS state managers? I do not recall seeing something in writing but that may have been the case.

Mr Miles—I think in most cases they were proactive and contacted offices.

Senator WONG—That is a telephone contact.

Mr Miles—In general, but they do get out there as often as possible and visit offices.

Senator WONG—Is there a minimum standard or a minimum requirement? If there are a number of electorate offices where you have identified there is a problem, what are the criteria?

Mr Miles—There are basic standards which relate to building codes generally. There are standards dealing with occupational health and safety, although they are not always defined in terms of X amount of space. Every office has its own peculiarities in terms of the location of equipment and whether it is co-located with staff, whether the office is older style and has impediments to changing fit-out, and whether the office has a number of individual offices within it or is open plan. All those things vary, so it is difficult to say that X number of square metres is required to accommodate individual—

Senator WONG—Not so much square metres, but, for example, presumably desk, computer and phone.

Mr Miles—Work, of sorts, was conducted in about 90 offices across Australia as a result of this initiative. In about 21 cases it involved reconfiguration, such as the construction of new workstations or changing the reception area, and perhaps moving bookcases. In those cases the value of the work has always been less than \$20,000. There are five other cases in which

the work is such within the office that expenditure of more than \$20,000 will be necessary. They tend to be in some of the older offices, and in those cases we are taking the opportunity to undertake some routine maintenance, such as painting and replacement of carpet as well. As I said, there are three offices where, quite simply, additional space will be required. Over and above that, in about 60 cases we have been able simply to put another workstation in—desk, chairs, and maybe do some minor electrical work.

Senator WONG—The budget measure does not commence in 2007-08. Presumably there has been expenditure to date in relation to capital expenditure associated with the additional staff member.

Dr Watt—That is not correct. If you look at the paragraph below the table and the measure, it actually says: including \$12.8 million in 2006-07.

Senator WONG—I am sorry. So it is \$12.8 million plus the \$12.1 million.

Dr Watt—The convention in the measures document is what previous budgets use.

Senator WONG—I understand. So how much of the \$12.8 has been expended thus far?

Mr Miles—Directly in relation to this, I would not be able to tell you.

Dr Watt—We can get you an answer.

Senator WONG—The actual expenditure to date. Are you able to give us at least the offices in respect of which there has been expenditure?

Mr Miles—I do not have that detail.

Senator WONG—No, I presumed it would be on notice.

Mr Miles—Yes, we will.

Dr Watt—I am told that the answer to your questions is on its way.

CHAIR—While you are conferring, Senator Wong, Senator Murray has a couple of questions.

Senator MURRAY—Thank you. Dr Watt, yesterday in my press clippings there was an excellent article by Tim Colebatch of the *Age* on energy efficiency. It is a very good article and worth reading. He indicated—something which I believe—that energy efficiency will contribute more to dampening down greenhouse gas emissions than any other measure. He particularly praised—and I also agree with this—Minister Turnbull's edict that light bulbs are going to be made far more efficient in the future and the old style will be banned.

In that regard, I draw your attention to question on notice No. F41 in which I asked MAPS about their national energy management plan and their energy efficiency audit. Firstly, MAPS confirmed that they had requested UGS to develop a national energy management plan. Secondly, MAPS confirmed that the energy management plan will involve an energy audit using available data on energy and water usage, but there were no current plans to release the electorate office energy audit results.

I asked if MAPS could confirm that a draft plan would be completed by the end of March 2007. The answer was yes. I asked, if that was so, by when members and senators are likely to be advised of the decisions and the implementation time lines. The answer was that we would

be advised as the process continued. My question arising from that long lead-in is this: can you give us an update on what you are doing? I have heard nothing. We are now in May and this draft plan was completed at the end of March, according to your answer.

Mr Miles—I am happy to give you an update on that. As we replied in our answer to your question on notice, our property managers, United Group Services, were commissioned to provide a draft plan. They provided that to us in late March or early April. We have considered it at a meeting with them and we have asked them to refine it and firm up on it with a view to receiving something back from them very shortly so that we can brief the minister on this.

The features of the draft plan which we believe will be features of action going forward include an energy audit of electorate offices but not of every office. We have received requests from about 20 offices around Australia to date for energy audits to be conducted. UGS advised us that the cost of each audit would be in the order of \$6,000. They have recommended—I think appropriately—that we audit a sample of electorate offices with a view to benchmarking energy usage across Australia.

They have also developed a checklist to ensure that energy efficient measures are retrofitted in existing electorate offices where at all possible—they will go to lighting, I imagine, and possibly some plumbing features—and it also lists features that will automatically be included in the development of any plans for new electorate offices. The recommendations go to the nature of future purposes of equipment with favourable energy star ratings. In terms of the use of green power, I think they will be recommending that an approach be made on either a national or state-by-state basis to power authorities to see whether the Commonwealth is able to broker some arrangements across all electorate offices, either in one jurisdiction or nationally. As I said, we believe that they are close to finalising that report. We will be briefing the minister very soon after that, and senators and members will then be advised.

Senator MURRAY—Give me a sense of urgency. Yesterday I engaged in the same sorts of questions with the Department of Parliamentary Services, and it was like, ‘We’ll rank it in amongst other priorities.’ Yet my impression—from the government, the opposition, our own party and other political parties—is that, from the political side of things, we want Australian government departments to get on with these things and put them high up on the list of priorities. What is your sense of urgency? When will all this happen?

Mr Miles—It is something that we are treating with a degree of urgency. We are always in the business of looking at potential electorate office sites and designing them, so it is important for us that we have this information available to us as soon as possible. As I said, we received a draft report in late March or early April. We have met with UGS on a couple of occasions since then—we spoke to them as recently as yesterday—and we believe that we will have something in a final form from them within the week.

Senator MURRAY—You said that you had only had 20 requests for audits. Is that out of the 226 members’ and senators’ offices? Is that what you are saying?

Mr Miles—That is correct.

Senator MURRAY—I do not think that is any measure of the demand. Just because members and senators have not asked you does not mean to say that they do not want an energy audit.

Mr Miles—I understand that. But one of the reasons that we are treating this as a matter of urgency is that we know that there are some expectations on the part of some senators and members out there, and we would like to be able to meet those in a proper, regulated, consistent way.

Senator MURRAY—In here are 10 or so senators. I would guess that, if you asked them if they would like an energy audit, every one of them would say yes, because it is the policy of all of our parties—to get on with this thing.

Senator FAULKNER—I am just wondering what my energy will be like after two—

Senator MURRAY—Senator Faulkner's energy is diminishing, he tells me!

Senator FAULKNER—No, I am just thinking about how it will feel after two weeks of Senate estimates.

Senator MURRAY—To return to priorities: you mentioned relocations and new fit-outs. Surely when they happen, because they do periodically, they are automatically put onto an energy efficient requirement—the specifications for the fit-outs et cetera—

Mr Miles—It is a standard part of the brief provided to designers and it is a standard part of the brief provided to United Group Services when they are trying to find a building for us that we would prefer something that was energy efficient rather than something that was not. What we hope to get from this exercise is something that spells out quite clearly for all concerned exactly what we should be looking for.

Senator MURRAY—Tim Colebatch in his article in the *Age* yesterday captured what we have seen in other information but it was very well recorded. The article indicated the absolutely amazing savings resulting from switching off lights and switching to energy efficient lights, just light bulbs—just amazing. In my electorate office I would have the electrician through, say, twice a year to tend to the light fittings, as I am not allowed to do it myself—fortunately. Is there a standard instruction that, when they have to replace fittings, they replace them with energy efficient fittings?

Mr Miles—I do not know about a standard instruction. Our state managers are aware of those things, as they deal with the people who provide maintenance. I think the problem is that there is no across-the-board, one-size-fits-all solution to this because of the nature of our electorate offices. They are leased space. They come with their own inherent electrical systems and the like. I think we do what we can at the moment, but we would prefer to have something like this definitive plan costed so that we could make some decisions about the cost-effectiveness of, for instance, ripping out a current electrical system and replacing it.

Senator MURRAY—I suspect you do not do what you can. I suspect, and you can confirm whether my suspicions are correct, that there is nothing in writing from Ministerial and Parliamentary Services or the secretary to the regional managers saying, 'As part of normal maintenance, if you can replace bulbs and fittings without great expense because you are

there already then do so.' And I do not mean completely pulling out a system and putting in a new one.

Mr Miles—I am not able to confirm whether there is anything in writing. But I speak to my state managers fortnightly and we regularly talk to them about this issue.

Senator MURRAY—Let me assure you that your regional office in Western Australia is very efficient and very helpful, and I have no complaints. But if I ask the electrician who comes through my place, 'Can you put in more energy efficient things?' he says, 'I have no instructions to do that.'

Ms Mason—That is something that we can take a look at and, if there is a quick and easy way of instructing our contractors to, where possible, replace existing light bulbs, fluorescent tubes, or whatever happens to be already in the electorate office, with something more energy efficient, I do not see any reason why we cannot proceed quickly on that. The broader question of replacing light fittings with more energy efficient ones is one that needs to be looked at and is being looked at at the moment.

Senator MURRAY—I understand that. Practically, to get around 226 electorate offices would take a long time. It is not something you could do overnight, but I think there should be a rolling program. Is that right, Dr Watt?

Dr Watt—I think there should be and I expect that will be one of the things to come out of the consideration of the report we have received from our building manager. I think that is one of the things we will be talking to the Special Minister of State about.

Senator MURRAY—Is there any reason why this plan, which is near completion if I understood the answer to my question correctly, cannot be released either in full or in outline to members and senators so they know what is going on?

Dr Watt—I cannot see a problem with that. We will have a look at it, and I expect there would be no reason why it could not be released. But we would have to at least do the Special Minister of State the courtesy of consulting with him on the subject.

Senator MURRAY—Thank you.

Senator FORSHAW—Can I ask one question about offices, going back to the discussion about the additional staff member that was granted. The recollection I have from when I first became a senator is that there was a ballpark figure of so many square metres for offices. Was it 70 square metres or something like that?

Mr Miles—Until recently the guideline figure, as reported in the senators and members entitlements handbook, was 150 square metres. It has been that way for some 10 years or so, I think. It has been changed.

Senator FORSHAW—What is it now?

Mr Miles—The Special Minister of State has agreed just recently to the guideline figure being increased to 175 square metres. The online version of the handbook, I think, now reflects that change.

Senator WONG—Has that been advised? I know there might have been a change in the handbook, but I do not sit there clicking on the online handbook every day—perhaps I should.

Mr Miles—There has been no circular sent to senators and members generally. The entitlements handbook has been updated—

Senator WONG—Not the printed version but the online version?

Mr Miles—The online version; that is correct. If it was something that could be accessed immediately by all senators and members, perhaps a circular might have made some sense. We would not expect that, because the guideline size is now 175 square metres, we are going to be changing any program of relocation. The fact is that we will be dealing with electorate offices as they currently are, in their current size, until an event happens which causes us to perhaps look for other accommodation. When we do, we would have the greater guideline of 175 square metres to guide us.

Senator MOORE—Are there any other guidelines?

Mr Miles—In relation to accommodation?

Senator MOORE—That one has changed and we did not know about it. Have any others changed?

Mr Miles—That would be the only one I am aware of.

Senator FORSHAW—A lot of offices would not be capable of being expanded anyway, even at the end of their lease, would they?

Mr Miles—That is correct, Senator.

Senator FORSHAW—Because the original decision in locating a particular office is entirely based upon trying to meet that standard.

Senator WONG—In terms of the fourth staff member, I would be interested to know what you say the minimum health and safety standards would be. For example, have state managers ensured that the four staff members all have access to a reasonable chair?

Mr Miles—That is certainly correct; in fact, where we are warranted we will send an occupational health and safety specialist into an office to determine what is appropriate.

Senator WONG—So sitting on a meeting room chair with a cushion, because the meeting room chair is too short and there is no other chair in the office, would not be regarded as appropriate?

Mr Miles—No, it would not. If that situation existed and it was brought to the attention of our state manager, it would very quickly be put to rights.

Senator FAULKNER—What about all the cabinet room chairs that are about to go out to the dump? I suggest that you go and collect them. It is win-win.

Senator WONG—They were dismantled and taken to the tip.

Senator FAULKNER—The evidence was changed and now they are about to go to the tip.

Senator WONG—I thought some of them would be kept and some would go to the tip.

Senator MURRAY—No, let me explain. He came back when you were not here and said that they are all in the warehouse.

Senator FORSHAW—You would have to factor in the cost of transporting them all around the country, which would be hundreds of thousands of dollars.

CHAIR—I can advise the committee that a chair for my fourth staff member arrived even without having to be asked for.

Senator WONG—That is very nice. I want to get this on the public record: that is not the case in relation to at least one office of which I am aware.

Senator Colbeck—I can assure you that that is the case.

Senator WONG—I am sure that I can speak privately to my relevant state manager. Is it appropriate for staff members to have to share one phone set?

Mr Miles—The entitlement for the number of phone lines in an electorate office has not been varied.

Senator WONG—That is a very good answer but it does not really answer my question.

Senator FAULKNER—How many phone lines are there currently? What is the current entitlement for phone lines in an electorate office?

Mr Miles—Four, Senator.

Senator WONG—Lines, not handsets, which are a different thing.

Mr Miles—Sorry, Senator. With handsets, part of what we have been doing across Australia is putting new handsets in where they can sort.

Senator WONG—Have members and senators been told that they can get additional handsets with this new staff member?

Mr Miles—I think that the circular that went out from the Special Minister of State might have indicated that there could be discussion with their matched state manager on these things.

Senator WONG—The one I got, of 11 January, which is the one advising us of the increase, said ‘it is anticipated the additional position will reduce the need for existing staff’, and it talked about the relief budget and being mindful of the new ESA system and if people had any queries in relation to staff allocation they should contact the office or relevant entitlements manager. There might be another—

Mr Miles—That was the reference that I—

Senator WONG—It said, ‘if you have any queries’, not ‘please contact them to make sure that this person has a chair and a phone’.

Mr Miles—I think that was the intention of the circular, Senator.

Senator WONG—It says that if members or senators have any queries in relation to staff allocation, ‘please contact my office’. Is that the reference you are talking about?

Mr Miles—No, the one that talked about contacting—

Senator WONG—‘Or the relevant entitlements manager’?

Mr Miles—Yes.

Senator WONG—I was going to move on to the certified agreement.

Senator MOORE—I have one question following on from Senator Murray's questions about energy efficiency in terms of some discussions we have had around the place about offices. Has there been any process or circulars to inform offices of best practice? Through this discussion of the new plan that is being drawn up and the checklist, which I think is a very valuable idea, have there been some meetings or training, particularly for office managers, about how they can achieve best practice in the variety of offices that we all have?

I know that one of the other departments actually has that in place for their department. It just seems to me that our operations operate very much more like small businesses and you have a range of different operations. It would be a useful exercise to have some awareness training for the people who work there on how to best use energy efficient measures in their locations. Is that part of your planning?

Mr Miles—Certainly, the brief to UGS included a requirement that we receive something which could be sent out to electorate offices giving them some useful hints on how, with their own actions, they could reduce the energy footprint. I do not think that the notion of actually providing training has been specifically considered, but it does sound like a good idea. It could be factored in to some of the training that we already provide to electorate staff.

Senator MOORE—Is it possible to see the brief that went to the people to do this work? Is there a problem with seeing that?

Mr Miles—I cannot answer that because—

Dr Watt—We can have a look at it, Senator.

Mr Miles—I am not even sure—

Senator MOORE—Could you have a look at it and see? Then we would be able to see at least what the program is around which this is being operated. We could perhaps have some input from offices, particularly those 20—and it is about to be 21 when I get back to my office—that are asking for audits.

Senator WONG—You are going to get a rush, Mr Miles.

Senator MOORE—I just think that there are people out there who want this to happen and it is best to engage them in it. That might be a useful thing.

Dr Watt—We are happy to have a look at that. As we said to Senator Murray, we will provide that to you on notice subject to the Special Minister of State being comfortable with it.

Senator WONG—Can you remind me when the date of the vote on the enterprise agreement for staff was? It was lodged with the Office of the Employment Advocate, whose name has now changed. I cannot recall what the government's new name for that is. Senator Colbeck can probably remind me. When was the vote, Dr Watt?

Dr Watt—I think that Ms Clarke can answer that one for you.

Ms Clarke—The date of lodgement was 14 December and—

Senator WONG—I think I just said that.

Ms Mason—The ballot closed on 8 December 2006.

Senator WONG—Thank you. Part of the enterprise agreement negotiations was different arrangements in relation to overtime—correct?

Ms Clarke—That is correct.

Senator WONG—And there was essentially a fixed budget for overtime which had to be shared amongst all staff members?

Ms Clarke—That is correct.

Senator WONG—And an allocation has to be made by the member or senator as to how much each of them gets?

Ms Clarke—This is in terms of electorate staff allowance under the new agreement?

Senator WONG—Yes.

Ms Clarke—Yes, that is correct. It is actually an allowance that is paid to staff members—

Senator WONG—In lieu of hourly overtime?

Ms Clarke—Overtime was phased out and an allowance was brought in.

Senator WONG—So this is in lieu of hourly overtime?

Ms Clarke—That is correct.

Senator WONG—The way in which the allocation works is that there is an ESA budget and essentially officers have to work within the budget?

Ms Clarke—That is correct.

Senator WONG—I suppose one of the issues that arises is that the decision to allocate a fourth staff member actually brings a fourth person into a budget which people previously regarded as having to be shared amongst three staff members. Is that correct?

Ms Clarke—That is correct.

Senator WONG—Did the government advise the employees or their representatives through the negotiation process of the pending additional fourth staff member? That obviously had an impact on the potential entitlements of existing staff members in the context of the EB negotiations.

Ms Mason—No, we did not. No decision had been taken at the time that the vote concluded.

Senator WONG—No, but at the time that negotiations were still proceeding and at the time prior to the EBA being finalised, the Special Minister of State had already written to the Prime Minister seeking the additional staff member.

Ms Mason—That is correct. This issue did receive some coverage at the February estimates hearing. What we said at that time was that we did not think it was appropriate to divulge the considerations of government. If we had disclosed to the staff negotiating group that that issue was under consideration, they could potentially have taken that into account in their decision making process. If the fourth staff member was not ultimately delivered, we may have misled them. In fact, with the same budget applicable to four staff and with an extra

staff member to share the tasks, it is a more generous position than when it needed to be shared amongst three.

Senator WONG—That depends on how much overtime people were working under the previous arrangements. You cannot make that blanket statement. You can make that statement in terms of the total allocation for the office, but in terms of individual staff members that may not be the case.

Ms Mason—If the same number of hours needed to be worked—

Senator WONG—What I am saying is you are making an assumption about how that overtime is divvied up. There may be staff members who are now doing significantly more overtime than they are able to be paid for than they were doing under the previous arrangements.

Ms Mason—There is quite a lot of discretion available to the employing senator or member as to how they allocate the—

Senator WONG—I accept all that. I am just taking issue with the blanket statement.

Ms Mason—ESA. My point is that, if the same number of additional hours needed to be worked, the fact that you have a fourth staff member full time to undertake those duties actually relieves the pressure on the other staff to be required to work additional hours.

Senator WONG—My point is you are making an assumption that staff members are just allocated hours across the board. What I am saying is that there might be a particular staff member who worked significantly more overtime than other staff members and, if they continue to work that same amount of time, these new arrangements may in fact disadvantage them.

Ms Mason—Well, yes, Senator—

Senator WONG—Thank you. That is all; I just wanted the—

Ms Mason—although the employer can look at the allocation of tasks and hours within their office, take account of the fourth staff member and take account of the flexibility inherent in the ESA allocation to recognise the additional hours required by each.

Senator WONG—All of which I agree with. I was simply taking issue with the blanket statement that the position is more generous, because it is not necessarily. It depends on what decisions are made, how overtime is allocated, what hours people work and what the previous arrangements were.

Senator FORSHAW—And the additional staff position is only at the EOA level—

Senator BOYCE—It is 38½ hours more a week, for God's sake.

Senator FORSHAW—which does not mean that you have the total flexibility that you are suggesting in covering what might otherwise have been overtime, for instance, for the EOC, who for many senators would be the person who would come to Canberra.

Ms Mason—Senator, the combination of the additional EOA staff member and the flexibility for different ESA allocations to the staff, we think, provides employers—

Senator FORSHAW—Yes, but the total amount of ESA, for instance, could have been allocated across the original three, the existing three staff, in advance of the fourth position being allocated and a person employed. So there is that problem. You can come back and say, ‘Well, you can fix that in July,’ but it is not as easy as you suggest to make a whole lot of new arrangements. My second point is that you cannot just assume that additional overtime that might be worked by a particular electorate officer because of the nature of the job they are doing can be covered by the additional employee, who can only be employed at the lowest grade within the office.

Ms Mason—I think the guidance issued by the department urged people to consider not fully allocating their ESA budget so that they retained some flexibility.

Senator FORSHAW—I take that point. I am not suggesting that everybody actually did. But I am also making the point that it is not as simple as saying, ‘Oh well, the bucket of money is there; let’s get an additional position,’ to deal with the issues I think Senator Wong was pointing out. And I think that would be conceded.

Senator WONG—I was going to move off that subject, if no other senators have questions about it. Could we get an update on the government staffing numbers since the February estimates. I think you answered a question on notice from Senator Ray, F13.

Senator FAULKNER—You have the usual table to provide, have you, Ms Mason?

Dr Watt—I am sure we have.

Ms Mason—We do. Mr Miles can assist you there.

Senator WONG—That is the nice thing about coming into a committee that Senator Faulkner has been on: everything runs smoothly.

Senator FAULKNER—You may need to correct that statement!

Mr Miles—I have here two tables: one table shows the allocation of personal staff positions for the government and other parties as of 1 May and the other table shows variations in the government personal staffing establishment between 1 February and 1 May.

Senator FAULKNER—Do you remember what the government ministerial staffing establishment was when the Keating government lost office? Can you remind me of that figure?

Mr Miles—I am not sure that I have that figure here.

Senator FAULKNER—I think it was provided previously. You do not have it?

Dr Watt—I am sure we can find it.

Senator FAULKNER—So am I.

Dr Watt—We will undertake to get it for you.

Mr Miles—I do have that figure.

Senator FAULKNER—I knew you would, Mr Miles. So do I have it, I believe, but I just want to check that we have the right figure.

Mr Miles—I have 364.

Senator FAULKNER—364?

Mr Miles—That is correct.

Senator FAULKNER—You never let me down, Mr Miles. Thank you. Government ministerial staff as at the time the Keating government lost office is the benchmark comparator, as you would understand, Dr Watt. Yes, I would not make any comment, either. Do you have the opposition staffing figure as of that time, too?

Mr Miles—74.

Senator FAULKNER—That is right. That is, in effect, 21 per cent in raw terms.

Mr Miles—That is correct.

Senator FAULKNER—Thank you for that. I might briefly move to another issue, if that would assist.

CHAIR—That would, Senator Faulkner.

Senator FAULKNER—I want to ask a couple of questions about one of the budget measures on page 199 of Budget Paper No. 2, which is the enhanced security arrangements for members of parliament staff. I gather that this budget measure has arisen in concert with the police checks that are proposed for members of the parliamentary press gallery and lobbyists. I appreciate that is not directly a matter for the Department of Finance and Administration, but the Department of Parliamentary Services pointed out that these three categories—MOP staff, lobbyists and members of the gallery—were all to be subject to police background checks. Can you confirm that for us?

Ms Mason—I can confirm that the issue arose because the Security Management Board of Parliament House—I believe Ms Penfold gave evidence about this earlier in the week—

Senator FAULKNER—She did.

Ms Mason—recommended to the Presiding Officers that police checks should generally be undertaken for people issued with photographic passes to access Parliament House. That includes a number of MOP(S) Act staff. It seems sensible for those police checks to be conducted in relation to MOP(S) Act staff.

Senator FAULKNER—Thanks for that. So in other words, the initiative has come from the Security Management Board here in Parliament House?

Ms Mason—Yes.

Senator FAULKNER—It was not something that was effectively generated originally within the Department of Finance and Administration?

Ms Mason—Not originally, although I think it is fair to say that we consider it to be a sensible idea.

Senator FAULKNER—When was the department first apprised of the proposal?

Ms Mason—I would need to take that on notice. It is hard to pin down a precise date when the issue first arose. We would need to check our records.

Senator FAULKNER—Have you engaged with the Security Management Board here in Parliament House on these sorts of issues?

Ms Mason—I attend the meetings of the Security Management Board.

Senator FAULKNER—Are you actually a member of it? I was aware that you fronted up. I was not sure whether you were a member or whether you were seconded.

Ms Mason—I am not formally a member but I do attend the meetings and I am certainly able to express views at those meetings.

Senator FAULKNER—And you are a very regular attender?

Ms Mason—I am. Unless I am out of town or on leave, I always attend the meetings.

Senator FAULKNER—In unusual circumstances, if you are unable to attend, are you represented by another official from MAPS?

Ms Mason—Yes.

Senator FAULKNER—With the role of attending the Security Management Board, you are not able to indicate to me when this idea kicked off?

Ms Mason—Not without checking our records.

Senator FAULKNER—When the proposal was raised—and I stress again that it was being developed not only for MOP staffers here but also for lobbyists and members of the federal parliamentary press gallery—what consultative activity, if any, did you undertake? Did you brief ministers or take any other action to receive some feedback on the appropriateness or otherwise of the police background checks for MOPS?

Ms Mason—Not specifically at that time. It was a recommendation from the Security Management Board to the Presiding Officers, so it was a matter for the Presiding Officers to consider whether or not they agreed with the recommendation. There is a general briefing provided to the Special Minister of State in relation to the general issues discussed at the Security Management Board meetings. Whether that issue was specifically covered, again, I am not sure without checking.

Senator FAULKNER—Did this only go forward to the Special Minister of State after it had been approved by the Presiding Officers?

Ms Mason—I think the answer to that is yes.

Senator FAULKNER—I am trying to establish whether we got an approval—a tick-off is the terminology I used; a sign-off, if you like—by the Presiding Officers on this matter or whether it is, as the President of the Senate was saying to this committee when we had the Department of Parliamentary Services before us dealing with this proposal in relation to members of the federal parliamentary press gallery, a proposal for consultation. When I heard the evidence, given there was the budget measure in relation to MOPS and the lead time in relation to budget measures, it struck me that it all seemed a little inconsistent. Anyway, you are telling us that the Presiding Officers ticked off on the proposal, which is different to what the Presiding Officer told us on Monday.

Ms Mason—My recollection is that there was a recommendation from the Security Management Board to the Presiding Officers. I do not recall having seen the precise terms of that recommendation—whether it was a recommendation to approve the conduct of police checks or whether it was a recommendation to consult about a proposal to conduct police checks. I am not sure about that, and I am sure that DPS would be better placed to answer that question. But the department—

Senator FAULKNER—I am not sure that they would be better placed at all, given the nature of their answers to questions.

Ms Mason—I think it is fair to say that we, in the department, consider it to be a sensible idea to conduct police checks in respect of MOPS Act staff. It is a procedure that is commonly undertaken in relation to Australian public servants. It is also a measure that is commonly undertaken in certain industries such as child care and aged care, so it does not seem unreasonable to have those basic checks undertaken for staff who have access to a building which is of national significance.

Senator FAULKNER—That is a fair point to make. I am not canvassing its reasonableness or otherwise. I am trying to establish what the process was, which is what we do at this estimates committee, as you know. I am trying to understand, given that this has evolved into a budget measure in the 2007 budget in relation to members of parliament staff, how the proposal goes from the Security Management Board at Parliament House to becoming a budget measure for DOFA. I am trying to understand whether it goes directly from the Security Management Board. But you have told me no, it went via the Presiding Officers to the Special Minister of State. I am just trying to understand the process.

Ms Mason—We may be talking at cross purposes. The recommendation went from the Security Management Board, as I understand it, to the Presiding Officers to consider, and included MOPS Act staff as a subset of other people gaining access to Parliament House. Because of my participation in the Security Management Board meetings I was well aware of that recommendation being made. Being aware, also, that it would have resource implications for the department, I made sure that we initiated procedures to make sure that we would have the funding necessary to implement that recommendation.

Senator FAULKNER—Did the Presiding Officers formally communicate with the Special Minister of State about this proposal?

Ms Mason—I would need to check but I do not think that they did, unless there is something I am not aware of.

Senator Colbeck—My understanding is that they did not. My advice is that there was no communication.

Senator FAULKNER—So the communication came from you as a member of the Security Management Board, effectively. It is something that you fed back through the DOFA budget bids process.

Dr Watt—That is correct.

Senator FAULKNER—Before it becomes a budget bid, it is approved by the Special Minister of State. Is that how it worked in this case?

Ms Mason—Budget proposals do have ministerial approval, yes.

Senator FAULKNER—Yes. So this one was approved by the Special Minister of State. Or are you suggesting it was approved by the Minister for Finance and Administration?

Dr Watt—The budget bid is ultimately signed off by the Minister for Finance and Administration. He is the one who, as the senior portfolio minister, is responsible for overall budget bids, but I would be very surprised if the Special Minister of State was not aware of the bid.

Senator FAULKNER—I would be, too. I would be quite worried if that were the case.

Dr Watt—So would I.

Senator FAULKNER—I would be worried if the Special Minister of State did not know what was happening in his own small area of responsibility.

Dr Watt—It is a very extensive area.

Senator FAULKNER—Rubbish, Dr Watt. If you are going to say that, you have to say it with a straight face.

Dr Watt—I did.

Senator FAULKNER—We all know that is a load of old codswallop.

Dr Watt—As I said, I would be surprised if he was not. We can check the timing of the advice to him. He was certainly aware of a number of our budget bids because they fell within his area of responsibility.

Senator FAULKNER—How many of the budget bids did fall within the Special Minister of State's responsibility?

Dr Watt—If you take into account bids that were put up through other budget submissions, because some of them were joint bids, I think there were four, five or six. I would need to check the number.

Senator FAULKNER—Four, five or six.

Dr Watt—I can check that number.

Senator FAULKNER—Please do. And how many were actually in the area of responsibility of the Special Minister of State?

Dr Watt—All of those were.

Senator FAULKNER—Sorry. How many budget measures were actually in his area of responsibility? Three?

Dr Watt—We are enjoying using Budget Paper No. 2—a much underused budget document. Finance prepares it, which is why I say it is much underused. It is a good document.

Senator FAULKNER—It is not underutilised by me.

Senator WONG—You are in need of more attention, Dr Watt.

Dr Watt—Not at all. The last thing I need is more attention.

Senator FAULKNER—I can assure you, Dr Watt, that it gets all the attention from me that it deserves.

Dr Watt—That is a very open-ended response. If you would like to start on page 195, the following would be the responsibility of the Special Minister of State: the Australian government online service point.

Senator FAULKNER—Yes, that is one.

Dr Watt—Then you would move to—

Senator FAULKNER—Quickly to page 199.

Dr Watt—No, I do not think so. You would move to page 197, Comcover.

Senator FAULKNER—Is Comcover a primary responsibility of the Special Minister of State?

Dr Watt—That is correct.

Senator FAULKNER—That is two.

Dr Watt—You would then move to the three on page 199.

Senator FAULKNER—That is five.

Dr Watt—You would then move to—

Senator FAULKNER—Then you would move and close the book.

Dr Watt—No, I would not. I would move to a couple of other portfolios.

Senator FAULKNER—Don't you go to other portfolios. We will just stick to your portfolio.

Dr Watt—One, for example, for the security national agenda, which is also part of the GMO and is his responsibility. I think I got to six.

Senator FAULKNER—Let us settle on five, Dr Watt. It means that your guesstimate earlier of four, five or six was right on the money. If we average out your guesstimate you are spot on, so thank you for that.

Dr Watt—I am a great believer in accurate evidence.

Senator FAULKNER—Thank you for that accurate evidence.

Dr Watt—Five.

Senator FAULKNER—Yes. And thank you also for informing us that the Special Minister of State is overworked. Having established that, I was trying to understand the involvement, if any, of the Special Minister of State in the progression of this particular budget measure—the enhanced security arrangement—of which we have been speaking. In other words, the police background checks. You indicated, Ms Mason, it was the view of the department that this was a useful initiative.

Ms Mason—Yes.

Senator FAULKNER—How does the department establish these views?

Ms Mason—In discussion amongst senior people within the department.

Senator FAULKNER—All right. So you had a discussion amongst senior people in the department and the department came to the view that this was a good move.

Ms Mason—With budget bids being handled by the portfolio, there is quite a lot of discussion amongst senior people about the nature of those bids.

Senator FAULKNER—Yes. But it was not initiated by the portfolio; it was initiated by the Security Management Board. We know that.

Ms Mason—I think I said ‘in respect of’ or ‘in relation to the portfolio’.

Dr Watt—I think the Security Management Board was the trigger, but we were, nevertheless, the department that had to bring the bid forward.

Senator FAULKNER—So there was a discussion amongst senior officers, Dr Watt, about the appropriateness or otherwise of this, it got the tick-off and went to the Special Minister of State or the Minister for Finance and Administration.

Dr Watt—That is right. And again, some, they will put forward; some, they will not.

Senator FAULKNER—Yes. And they go with a departmental recommendation at times?

Ms Mason—Yes.

Senator FAULKNER—I am not going to ask you what the departmental recommendation was but was there a recommendation in relation to this matter?

Dr Watt—We provide a sense of priority to ministers as well as a recommendation.

Senator FAULKNER—There has been a problem in relation to this broad area of enhanced security arrangements anyway, has there not? It is all very well to say that you want to have police background checks on members of parliament staff, but what about security clearances for ministers? The last time we canvassed that issue at this estimates committee, it was a pretty poor turnout, wasn't it, in terms of the number of security clearances?

Dr Watt—Senator, I do not think you mean security clearances for ministers, do you?

Senator FAULKNER—Did I say ‘ministers’?

Dr Watt—Yes, you did.

Senator FAULKNER—I meant ministerial staff. Let the record show ‘ministerial staff’. If there were security clearances for ministers, the mind boggles!

Ms Mason—I can recall two previous discussions at estimates hearings regarding security clearances for ministerial staff—but not for at least a couple of years. I think the first one showed that the compliance was not as high as it perhaps could have been, and the second one showed that the compliance rate had improved markedly.

Senator FAULKNER—Yes, it was improving. What is the current compliance rate?

Ms Mason—In terms of details, I think we would need to take that on notice to check what the current compliance rate is. At any one moment in time, there will be some clearances that are not yet in place because staff have not yet completed their documentation. There have also been some changes in staff in recent times, which means that there could be a bit of a lag there. We can take that on notice and check.

Senator FAULKNER—I am disappointed that you cannot tell me what the compliance rate is. By the way, I accept that there is a lag in terms of processing these things. But it is also true, is it not, that some ministerial staff refuse—just simply refuse—to undertake the security clearance procedures? That is true, is it not?

Ms Mason—There are some staff who are quicker than others to comply with that requirement. It is a requirement that takes quite a bit of work by the employee to complete the documentation and provide supporting documents.

Senator FAULKNER—Ms Mason, I know and you know that there are longstanding ministerial staff who work in this building who refuse to undertake the security clearance procedure.

Ms Mason—It is true that there is a small number of ministerial staff who have not, for a considerable period of time, completed the necessary documentation to obtain a clearance. Ultimately, the action that can be taken in respect of that is for the clearance to be denied, and that could potentially have implications for their ongoing employment.

Senator FAULKNER—What I am doing here is drawing a comparison between those longstanding ministerial staff, working in the most sensitive of portfolio areas, who refuse to cooperate with the security clearance procedure—which you have just acknowledged is occurring—and this proposal for police background checks on journalists and members of parliament staff. That is a reasonable comparison to make: on the one hand, what is being demanded or expected of journalists and parliamentarian staff working in this building and, on the other hand, senior ministers in the most sensitive of portfolios have their staff refusing to participate in the security clearance process.

Ms Mason—Perhaps I can clarify that. I am not aware of anybody who has refused. There are people who have for some time not provided the information. There is a bit of a difference. It becomes a judgement call as to at what point in time we form a judgement that the person is not going to comply and therefore their clearance should be denied, and perhaps their employer might take into account whether they continue to be suitable for MOPS Act employment.

Senator FAULKNER—I do not accept that. I accept your valiant defence of those who are taking an extraordinarily long time. They are taking an extraordinary long time. Let us quantify how long it is: it is years and years, isn't it? That is what we are talking about: years. We are not talking about days, weeks or months; we are talking about years. That amounts to a deliberate refusal, in my view. In your view it means that they are just incredibly tardy year after year, but everyone in the know in this building knows that the senior staff in sensitive portfolios have not and will not cooperate with the security clearance process. It is not a matter for you, Ms Mason—you are an official at the table and, as you always do, you are providing answers to questions properly asked—but I am saying, to the parliamentary secretary in this case, what an example of double standards it is.

Senator Colbeck—I am not too sure that you can equate a process for a security clearance of the level that ministerial staff are required to undertake with a background police check. I think there is a significant difference in standards between those two particular processes. In fact, I know that there are considerable differences in the processes.

Senator FAULKNER—It is a pity that Senator Minchin is not here. It is a pity we cannot start with Senator Minchin, who is the Minister for Finance and Administration. Let's start with your taking on notice the compliance in Senator Minchin's office in relation to security clearances. Perhaps you could take that on notice, just for starters. If we want to get into the business of starting to name names of ministers and staff—which I am very reluctant to do, as you know, and have been for the entire 11 years that I have been sitting on this side of the table—we will. I make the political point, and it is a strong political point, about the double standards that apply. Of course, I assume that in relation to the photographic pass police checks—I want to be clear on this, so I direct this to either Senator Colbeck or Ms Mason—they are relevant only to a staffer of a member of the House of Representatives or of a senator who wishes to apply for a photographic pass for Parliament House. I want to be clear. Those police background checks, as I understand it, are limited to those people. It may be, for example—

Ms Mason—That is not correct. It is proposed that the police background checks be undertaken on a phased basis for all MOP(S) Act staff, including those who will be applying for, have applied for or hold a photographic pass and those who may not.

Senator FAULKNER—What is the justification for that, given that the justification provided by the Department of Parliamentary Services was that it was for people who are actually here in the building? Does that mean, for example, that you want to require every journalist in the land to have a police background check too?

Ms Mason—No. My remarks were about MOP(S) Act staff. The proposal is in relation to MOP(S) Act staff. The starting point was the recommendation of the Security Management Board to conduct those police background checks for staff who work primarily in Parliament House and apply for a photographic pass, but it was considered, as I said earlier, a sensible measure to extend that to all MOP(S) Act staff. I think it is reasonable for an employer who has staff dealing with sensitive personal information to know whether or not the staff engaged by them have a criminal record, so that they can take that into account in determining the person's suitability for the role.

Senator FAULKNER—So we now know it is not about access to Parliament House.

Ms Mason—It is not only about access to Parliament House. Bear in mind, of course, that electorate staff may travel to Canberra from time to time and may need access to Parliament House. The initiation of it was the recommendation of the Security Management Board, but the budget measure extends that requirement to all MOP(S) Act staff.

Senator MURRAY—If I can just intercede here: have you thought this through? Your answer was that it is warranted because MOP staff may—you did not use the word 'may' but I will use it—have access to sensitive information. As I understand it, volunteers in electorate offices, for instance, are entitled under the proper circumstances supervision to access onto the computers, where the officers have got access to sensitive material and so on. There are a range of people which extend from full-time MOP staff to part time, casuals, occasionals—if I can use that word; they are used at peak periods—and volunteers. It would seem to me that if the principle is that anyone in an electorate office with potential access to sensitive material is the criteria, you then in theory are extending it all the way through to volunteers.

Ms Mason—The budget measure is in relation to staff engaged under the MOPS Act. Volunteers are not employees. They are not engaged under the MOPS Act, and the access they may or may not get within an electorate office is a matter for the employing senator or member to determine for that office.

Senator MURRAY—Surely you can see that does not make sense. If this is a security issue and it is designed as a security issue, it should be all encompassing. In my view it is unnecessary in electorate offices for people who do not travel to a building like this, where there is a security issue, to have automatic police checks. I cannot see why. I think you are ending up with a situation where you are going to be police checking one category of people with access to information and not another with access to information.

Ms Mason—It is a matter for the senator or member to determine what access a person within their electorate office does or does not get but, in terms of public sector employees engaged under the MOPS Act, we think it is reasonable that the employer has available to them information about whether the person they are proposing to or do employ has a criminal background.

Senator FAULKNER—Can you confirm that members of ministerial staff have been requested on a number of occasions to provide the security clearance documentation and have refused?

Ms Mason—I can confirm that MOPS Act staff engaged by ministers and parliamentary secretaries have been regularly asked to complete security documentation. As I said earlier, it is not a matter of them refusing; it is a matter of a small number of them failing to comply and in a small number of cases for a lengthy period of time failing to comply.

Senator FAULKNER—But can you confirm they have been requested many times?

Ms Mason—I can.

Senator FAULKNER—Do you not see, Senator Colbeck, how extraordinary this is in relation to the budget measure and police checks? What excuse do you front up to this committee with in relation to these senior ministerial staff in sensitive portfolios refusing to participate in the security clearance process, yet willy-nilly we have got this budget measure relating to journalists and members of parliament staff on police checks?

Dr Watt—Senator, this budget measure does not relate to—

Senator FAULKNER—I am not asking you—sorry, that was directed to Senator Colbeck. Some people, Dr Watt, may have considered there was some political element to the question. I would not have so said, but because I thought someone might I have directed it to Senator Colbeck.

Dr Watt—I was not making—

Senator FAULKNER—The hypocrisy of this—

Dr Watt—I was not making a political point. The point I was making was that you said that the budget measure was directed to journalists. It is not. The budget measure relates only to MOP staff.

Senator FAULKNER—That is a fair point. There is a budget measure relating to parliamentary members of parliament staff and other proposals in relation to the members of the federal parliamentary press gallery and lobbyists. They are proposals, not budget measures. They are proposals in relation to those two. Anyway, let me ask this before we leave this matter: have there been any denials of a security clearance since the Howard government has been in office?

Ms Clarke—I do not believe there have been any denials.

Senator FAULKNER—I am not at all surprised to hear that. I am not surprised to hear that so many senior ministerial staff in sensitive portfolios have failed to cooperate.

Ms Clarke—If there were any denials they would be recommended to us by the vetting agency that undertakes it.

Senator FAULKNER—I understand that. There have been no denials, which is what I expected you to say, but there has been a significant number of senior ministerial staff in sensitive portfolios who have failed to cooperate with the process. Yet we have the President of the Senate waxing lyrical about police checks on journalists. Get real!

CHAIR—Senator Faulkner, do you have a question?

Senator FAULKNER—That is the comparison: police checks on these people and senior members of ministerial staff in the most sensitive portfolios dealing with national security basically giving the middle finger to the security clearance process. That is the reality.

CHAIR—Senator Faulkner, do you have a question?

Senator FAULKNER—Senator Murray wanted to ask some more questions.

Senator MURRAY—I have questions on a different topic. I have expressed my concern that I am not sure the matter has been fully thought through. My request to the parliamentary secretary and the secretary is to think this through a little bit more. It is a difficult issue, I think.

Senator FAULKNER—Senator Murray, I apologise for that. The chair informed me that you wanted to ask some more questions before the break. As soon as the break is concluded Senator Wong might address the issue of the blow-out in ministerial staff.

CHAIR—Senator Murray does have some questions on a different area which he will ask after that.

Proceedings suspended from 10.43 am to 11.01 am

CHAIR—I call the committee to order. Senator Murray will start questions.

Senator MURRAY—Ms Mason, I want to go back to question F12, answered from the estimates of February 2007. The topic was the certification of management reports. In your answer you indicated that in 2003-04, 21 members and 11 senators had not certified their management reports; in 2004-05, 37 members and 10 senators had not certified their management reports; in 2005-06, 65 members and 19 senators had not certified their management reports; and that, from July to January 2006-07, 129 members and 67 senators had not certified their management reports. It is true, is it not, that since I asked that question,

your department has, at least twice, reminded members and senators of the requirement to certify management reports?

Ms Hughes—That is true. Indeed, we reminded them on three separate management reports. The minister also has sent out a circular to all senators and members in the last week reminding them of their obligations in relation to certifying management reports.

Senator MURRAY—As a result of that, has there been a catch-up? Has there been a better compliance rate?

Ms Hughes—There has. I will compare what I have to what we gave you on notice.

Senator MURRAY—I would expect there to be better compliance. I am not as interested in how many there are with respect to the current financial year, because I expect people to be busy and not to get across everything they should do in this financial year. I really want you to focus on the financial years 2003-04, 2004-05 and 2005-06. What is the compliance pick-up there?

Ms Hughes—Certainly in relation to 2005-06 the number not certified is down to 49.

Senator MURRAY—Forty-nine in total?

Ms Hughes—Yes, in 2005-06.

Senator MURRAY—So that is down from 84?

Ms Hughes—That is correct. For 2004-05 it is 45, so that is a drop of only two—you had 47. I doubt the figure I have been given for 2003-04. It does not gel with the figure you were given, so that will have to be re-examined. In relation to the current year, though, I can report that there has been a flurry of activity and the average for certifications for the last nine months is about 85 per cent.

Senator MURRAY—That is good. I would like to ask you on notice, please, to provide the names of members and senators who have not certified in 2003-04, 2004-05 and 2005-06. Ignore the current financial year.

Ms Hughes—Is that the end of financial year report that you are interested in?

Senator MURRAY—Yes. In doing so, could you indicate in respect of any member or senator whether there is a dispute? If there is a dispute, there might be a legitimate reason for not certifying an account. Could you also indicate whether the member or senator is no longer with us—I assume if somebody has died they could hardly have certified their accounts—or if they have left office?

Ms Hughes—Certainly.

Senator MURRAY—Might I add that it is not my intention to embarrass anyone, so I have no problem whatsoever with you pre-advising all those to be named that if they get the certification to you by a certain date then they will not be named. My intention is not to embarrass people who have just been slack. My intention is to indicate whether there is an actual resistance to certification as opposed to a failure to be diligent. Is that clear?

Ms Hughes—It is, Senator.

Senator Colbeck—Chair, I would like to respond to a question that Senator Faulkner asked me prior to morning tea in respect of the compliance with security requirements by Senator Minchin's staff. I can inform you that every staff member of Senator Minchin's, Mr Nairn's and mine is currently compliant—that is, they have a top secret security clearance, are awaiting an external vetting agency or have had a pack for less than three months and are filling it in.

Senator FAULKNER—That is right. But there are the people Ms Mason was referring to whom I do not want to name at this point. I do not want to go through the senior ministers who have responsibility for security matters whose staff have refused to get security clearances, but it is possible we will have to do that. What I am doing is drawing a comparison between the noncompliance by senior ministerial staff and the security clearance procedures. These are people who have access to classified or highly classified material. Compare that with this proposition in relation to police checks for staff of members of parliament, journalists and lobbyists.

I have not necessarily been a very strong defender of journalists before parliamentary committees, but in relation to this not only do they have a case; there is a clear disparity in the approach that has been taken to staff of members of parliament and journalists and to senior ministerial staff who have not complied with the security clearance procedures—and have no intention of complying with them. It is a longstanding problem and hence the rub.

CHAIR—Senator Faulkner, you have made that point. Do you have a further question for Senator Colbeck on that issue?

Senator FAULKNER—No, I am pointing out to Senator Colbeck the serious problem that we have in relation to this issue: non-complying senior ministerial staff—

CHAIR—You have made your point, Senator Faulkner. Senator Wong?

Senator FAULKNER—in areas dealing with national security, compared with every journalist and every member of senators' and members' staff having to undergo police checks. It is a joke.

CHAIR—Ms Mason?

Ms Mason—Senator Faulkner made a comment, and I would like to clarify that ministerial staff who do not have a current security clearance should not be given access to classified information, and this is made clear in the correspondence that we provide to the employing minister or parliamentary secretary—that the person must not be given access to that material until such time as they do hold the appropriate clearance.

Senator FAULKNER—If you want us to start naming names, which I do not believe the parliamentary secretary would want us to do—because you have been very quick to provide the answers that I believe have been confidently provided in relation to the minister for finance previously—if you want to start talking about which offices these staff happen to work in where this sort of material is available, well, we will. I do not want to go there. What I want to do at the moment is point out the sheer hypocrisy of this proposition.

CHAIR—Senator Faulkner, you have made that point repeatedly. Senator Wong has the call.

Senator MURRAY—I have a question arising from that same matter.

CHAIR—Senator Murray.

Senator MURRAY—Ms Mason, you are quite proper in your answer; you are advising people of their obligations. However, if they were given access or they defied that instruction by gaining access, (a) you would not know, would you, from your departmental perspective; and (b) there is nothing that could be done about it, is there?

Ms Mason—We would not necessarily be aware of it, Senator, but the employer does have that responsibility to ensure that classified material is provided only to people who hold the appropriate security clearance.

Senator MURRAY—But there is no penalty, is there?

Ms Mason—Well, it would be a security breach if it were to come to notice, but you are correct in saying we would not necessarily know that.

Senator MURRAY—What is the penalty?

Ms Mason—There would be a breach issued and that would be notified.

Senator MURRAY—Under the Public Service Act?

Ms Mason—I am not sure which act.

Senator MURRAY—What do you mean by a breach, a penalty resulting from that? Is there a fine?

Ms Mason—I do not think I mentioned a penalty. There would be a breach notice issued.

Senator MURRAY—So nothing would be done about it; that is what you are confirming. You are just told, ‘Naughty boy,’ or ‘Naughty girl,’ and that is it. There is no penalty, is there, if you access security material and you are not entitled to do so—if you work in the minister’s office? There is no penalty, is there? You can come back to me on notice if you wish.

Ms Mason—It would be a matter for the relevant minister or parliamentary secretary.

Senator MURRAY—That is right. It is an administrative matter; it is not a matter of law. That is correct, isn’t it?

Senator FAULKNER—Everybody knows that these unclassified staff have access to classified material. Everybody knows that.

Senator MURRAY—And there is no penalty for them doing so.

Senator FAULKNER—Absolutely. Everybody knows that.

Senator MURRAY—That is my question, Ms Mason. By all means come back to me, but, as far as I understand it, it is an administrative matter. The employer will discipline the staff member. There is no criminal law penalty and there is no penalty under the Public Service Act or the MOP(S) Act.

Ms Mason—We shall check.

Senator MURRAY—Thank you.

Senator FAULKNER—It is not just the original security clearance either. There is a re-vetting process after a certain number of years, isn't there?

Ms Mason—Correct.

Senator FAULKNER—Yes. Can you tell us the number of years—is it five years?

Ms Mason—It depends on the level of clearance but, yes, my understanding is that it would be five years.

Senator FAULKNER—What about re-vetting? We know some staff refused to get involved in the original security clearance process. Have any ministerial staff balked at that re-vetting process?

Ms Mason—I think, again, there have been some delays in respect of some individuals; a small number.

Senator FAULKNER—So it is not just original security clearances; it is even re-vetting?

Ms Mason—Yes.

Senator FAULKNER—That is just extraordinary! What if a senator or member requests that their staff not have the police check? Senator Colbeck, is there a capacity for a member or senator to say, 'No, I do not want my staff to undertake such a police check'? We know members of the parliamentary press gallery are saying they do not want to undertake such checks. Can a member or senator say that they do not want their staff to undertake such a check?

Senator Colbeck—I do not believe that is the case, from my recollection of the documentation provided to me indicating my responsibilities as parliamentary secretary.

Senator WONG—You do not believe that you can refuse?

Senator Colbeck—No.

Senator FAULKNER—So these checks are going to happen regardless, even though ministerial staff, for the issue of security clearances or even re-vetting for security clearances, do not cooperate in the security clearance process. That is just incredible! A police check for a member's or senator's staff member who may not have, may not want to have, or may not need to have a photographic pass to Parliament House, gets a police check anyway, while senior staff in minister's office, dealing with national security matters, can basically thumb their nose at the security clearance re-vetting process.

CHAIR—Senator Faulkner, is there an additional question or are you just restating the same point again?

Senator FAULKNER—How do you justify that?

Senator Colbeck—I am not trying to justify anything.

Senator FAULKNER—You cannot justify it.

Senator Colbeck—I am saying, and I have said before, that in my view there is a significant difference between the top-secret security classification process, or whatever level it might be, and the process of getting police checks for people who have the capacity to or will have regular access to Parliament House. I think it is a legitimate security issue that has

been raised. I think that the two are different. I understand that you are trying to make a correlation. That is your prerogative. I do not have an issue with you doing that. But I am saying that there is a significant difference between undergoing a police check and the security process for ministerial staff.

Senator FAULKNER—When a senior ministerial staff member does not cooperate with the security clearance or re-vetting process, to whom, if anyone, is that lack of cooperation reported?

Ms Mason—There are regular status reports provided to the Special Minister of State about security clearances for ministerial and parliamentary secretaries' staff. There are also regular reports provided to the employing senator or member to the chief of staff, and reminder letters to the individual staff member concerned as well.

Senator FAULKNER—And does the report to the Special Minister of State and others indicate the length of time that the non-cooperation has existed for?

Ms Mason—Yes.

Senator FAULKNER—What is the longest period of non-cooperation? I am not going to identify the individual. What is the longest current period of non-cooperation that we have?

Ms Mason—We would need to take that on notice.

Senator MURRAY—If it is proposed that police checks be a condition of employment for MOP staff, is it a condition of employment for MOP staff with high-level security clearance access?

Ms Mason—It is in fact the other way around. It is a condition of employment currently that the staff of ministers and parliamentary secretaries obtain and maintain a high-level security clearance. It is not currently a mandatory condition of employment that a police check be undertaken for the staff of senators and members.

Senator MURRAY—Let me understand this. Pardon my ignorance. If you do not comply with a condition of employment and get a security check in a minister's office, should the administrative consequence of that be that you are then denied employment?

Ms Mason—That is one possible consequence. If a person fails to obtain and maintain the appropriate security clearance, their employing minister or parliamentary secretary may elect to terminate their employment.

Senator MURRAY—But if I employ somebody and they do not meet a condition of employment, it is you—meaning MAPS—that says that they are not employed. It is not me who says that they are not employed. Surely if somebody is employed by MAPS it is you and not the employer who says they cannot be employed.

Ms Mason—No, the employer is the senator or member. MAPS undertakes the administrative support work to facilitate the employment arrangements. We would provide the information to the employer about whether or not an employee has met a mandatory condition of employment. Then it would be a matter for the employer to terminate the employment.

Senator MURRAY—But in my experience that is not true. I would employ somebody without wanting to see their birth certificate or proof that they exist because I can see that

they exist. However, if I send the documents to you, you say, 'This person isn't going to get paid and isn't going to be employed until I'—meaning you, the department—'see their birth certificate.' So in fact you are the ones who determine it, not me.

Ms Mason—That information is so that we can identify people for superannuation purposes and so on.

Senator MURRAY—But that is a condition of employment. It is—of course it is.

Senator WONG—Of course it is. It is a condition of payment.

Senator Colbeck—You are talking about proof of identity?

Senator MURRAY—Yes. It is a condition of employment. If I do not supply it to you, you will not pay that person and put them on the staff. I can see that they exist and I am quite happy that their identity is as required. Do you see what I am saying to you?

Ms Mason—I do see what you are saying, Senator, but I think the difference is that, in relation to high-level security clearances, the time period involved in completing the necessary documentation and gathering together the supporting information that the vetting agencies need to make their assessment sometimes takes a considerable period of time. In fact, the person has already commenced employment and their continuing employment may be subject to them meeting that mandatory condition.

Senator MURRAY—But my question to you on the same theme as the provision of the proof of identity is that if after a certain period you advise somebody, if they had not received a high-level security clearance, that they would not be paid, I think you would get a rapid compliance, don't you?

Ms Mason—One would anticipate so.

Senator MURRAY—Perhaps that is a little suggestion to resolve this difficulty. You might find it a helpful mechanism to use.

Senator FAULKNER—You cannot tell me what the longest period for a noncomplier for a security clearance is. When you provide information to the Special Minister of State, do you categorise that in periods of length of noncompliance—five years, four years, three years et cetera—and put names to paper?

Ms Clarke—When we advise the Special Minister of State, we give an indication of how many clearances are outstanding and how many clearances are outstanding over three months. The detail then goes into how long those clearances have been outstanding.

Senator FAULKNER—How many clearances are outstanding currently?

Ms Clarke—I do not have the information on me. I would have to take that on notice.

Senator FAULKNER—How many clearances as of today's date are outstanding for three months?

Ms Clarke—Again, I will take that on notice.

Senator FAULKNER—I will make the cut-off as of yesterday's date. Thank you.

Senator WONG—I want to go to the tabled document, which is the update on previous question on notice No. F13. Should this be directed to you, Mr Miles?

Mr Miles—That is correct.

Senator WONG—You answered a question before on this from Senator Faulkner. This is just to get the baseline right. Do I understand your answer to be that as at the commencement of the term of the Howard government there were 364 in total government personal staff, meaning ministerial, cabinet policy unit, government members' secretariat et cetera?

Mr Miles—I will just confirm what I have in front of me. That is correct: 364 positions.

Senator WONG—The current equivalent number, as at 1 May, is 469.3—is that right?

Mr Miles—That is correct.

Senator WONG—So there has been an increase of 105.

Mr Miles—Correct.

Senator FAULKNER—It is actually 105.3, which would represent, would it not, a 29 per cent increase in ministerial staff over the life of the Howard government from the figure of 364, when the Keating government lost office, to 469.3 as of 1 May?

Mr Miles—I do not have those figures.

Senator FAULKNER—You do have those figures; you actually provided them.

Mr Miles—I cannot confirm the percentage increase.

Senator FAULKNER—I can. It was 29 per cent. There were all those grand promises of the Prime Minister, Mr Howard, that ministerial staff would be reduced—

Senator WONG—He also promised to reduce government advertising. Was that a non-core promise, Senator Colbeck?

Senator FAULKNER—Yes, of course it is.

Senator Colbeck—Is that a rhetorical question, Senator Wong?

Senator WONG—Well, what about the Prime Minister's promise to reduce government advertising, or reduce ministerial staff?

Senator Colbeck—I would have to take your word that it was actually a commitment. I am not aware of the commitment.

Senator WONG—You provided Senator Ray, I think it was, with the document we referred to previously. We had a 7.2 increase since 1 February?

Mr Miles—That is correct.

Senator WONG—I want to take you through the establishment variances which you have provided us with. I have not dealt with this area before, so you will have to be helpful.

Mr Miles—I will certainly try.

Senator WONG—What is the process for alterations to government ministerial staff? Who makes the decisions about the total number of staff, the classification level and who gets them?

Mr Miles—All decisions are made by the Prime Minister.

Senator WONG—So Mr Howard can choose how many staff he has across his cabinet and ministry and how much they get paid?

Mr Miles—Yes.

Senator WONG—With no upper limit?

Mr Miles—The act imposes no limit.

Senator WONG—Since 1 February we have an additional executive assistant office manager and an assistant adviser in the Prime Minister's office. Can you give some background as to why that occurred?

Mr Miles—We are very much the record keeper in this process. The decisions of the Prime Minister are conveyed to us, but not the reasons for those decisions.

Senator WONG—So we do not know why those additional two positions were required?

Mr Miles—That is not information that we have available to us.

Senator WONG—How many staff does Mr Howard have just within his office—42.3, plus the cabinet policy unit, which has seven. Is that right?

Mr Miles—That is correct.

Senator WONG—Just under 50 personal staff?

Mr Miles—That is correct.

Senator WONG—Do we have a classification structure? I am sorry, I have not brought one with me.

Mr Miles—No. The best guide that I could provide you with is the table, which will actually show you the various—

Senator WONG—In order?

Mr Miles—Yes.

Senator WONG—Mr Howard lost a secretary admin assistant and gained an assistant adviser, which is a more senior position, and an executive assistant office manager.

Mr Miles—That is correct.

Senator WONG—Which is also a more senior position.

Mr Miles—That is correct.

Senator WONG—You have not been advised as to why Mr Howard needed those positions?

Mr Miles—No.

Senator WONG—Do you know what the additional cost is?

Mr Miles—No.

Senator WONG—Does anyone ever calculate how much more it costs every time the Prime Minister decides to increase the government ministerial staffing allocation?

Mr Miles—I do not know whether that costing is undertaken. It may be done but not by us.

Senator WONG—I presume it does not have to go through ERC or cabinet?

Ms Clarke—No.

Senator WONG—It is just by prime ministerial fiat?

Ms Clarke—We are advised of an increase in staff and costing is undertaken at a certain point in the budget cycle.

Senator WONG—Who advises you?

Ms Clarke—I think Mr Miles.

Senator WONG—Who advises you, Mr Miles?

Mr Miles—We receive copies of the letters that the Prime Minister provides to the relevant ministers, parliamentary secretaries and other office holders.

Senator WONG—So the Prime Minister writes to a minister and says, ‘You’ve got these additional staffing allocations,’ and you get a cc—

Mr Miles—That is correct.

Senator WONG—and you just start paying them—is that right?

Mr Miles—We await for a duly completed contract to be provided by the senator or member concerned. You have to understand that we are talking about establishment, not necessarily people. Some of these positions will not be staffed at any point in time.

Senator WONG—Or they may not have had time. Presumably the Prime Minister does not write to himself. How do you get advised about the Prime Minister’s additional staffing allocation?

Mr Miles—In the same way that we are advised that a position has been allocated within the office.

Senator WONG—By whom?

Mr Miles—I cannot be sure. I imagine it would be the Prime Minister’s chief of staff.

Senator WONG—Do you get a letter or a phone call? How does it work?

Mr Miles—It is certainly written correspondence.

Senator WONG—Mr Miles, I thought you were the person who would get this letter.

Mr Miles—It comes to my area.

Senator WONG—Do you get a letter from the PM’s chief of staff saying, ‘We are now allocating ourselves a couple more senior positions’?

Mr Miles—The letter would say that the Prime Minister has allocated.

Senator WONG—Can you tell us why Mr Truss needed a new adviser and an increase from an assistant adviser?

Mr Miles—No, I cannot tell you that.

Senator WONG—Can you tell us why Senator Coonan needed a new adviser?

Mr Miles—No.

Senator WONG—Senator Coonan now has 15 staff: a senior adviser/chief of staff, three senior advisers, one media adviser, five advisers, two assistant advisers, one EAOM and two secretary/admin assistants.

Mr Miles—She has 15 personal staff positions.

Senator WONG—She has more staff than Mr Downer. Do we know why?

Mr Miles—No.

Senator WONG—The Minister for Communications, Information Technology and the Arts has more staff than the Minister for Foreign Affairs.

Mr Miles—It is a decision for the Prime Minister.

Senator WONG—What about Dr Nelson? His position got a demotion. He lost a senior adviser and got an adviser, and someone got a pay cut. Do we know why that happened?

Mr Miles—No.

Senator WONG—Mr Macfarlane got two new positions. Did he have an increased workload that resulted in him getting more staff positions?

Mr Miles—I am not aware of that.

Senator WONG—Of course, Mr Hockey got a new senior adviser.

Senator MURRAY—He has got an increased workload!

Senator WONG—Yes. He is selling the unsellable policy. Ms Clarke, do you provide costings in relation to all these staffing changes?

Ms Clarke—Yes. These are costed as part of the budget cycle.

Senator WONG—Do you have costings in relation to this variance?

Ms Clarke—We do cost it at a particular point. It might not be available now, but it would be available.

Senator WONG—While I am going through things with Mr Miles, can you find out what documentation you have regarding costings for the current financial year of increases in ministerial staffing? Someone is nodding. Does that mean they will find out or they have it?

Ms Clarke—They will find out.

Senator WONG—They will find out.

Senator Colbeck—Senator Wong, just to let you know, it might take a little while and we will provide you with costings for government increases as well as opposition and other parties.

Senator WONG—Because you want to provide both; is that right?

Senator Colbeck—I think it is reasonable that both are put on the public record—I think that is a reasonable response.

Senator MURRAY—It is perfectly reasonable.

Senator WONG—Yes. You could also check the percentage increase you have imposed since coming to government on the number of staff you have in the ministerial portfolios.

Senator Colbeck—I think Senator Faulkner has already put that on the record.

Senator WONG—Yes; almost a third. So Senator Ellison, who took over from Senator Campbell, lost a position but it became a more senior one. Is there any reason for that?

Mr Miles—We are not provided with reasons for any variations.

Senator WONG—Someone has to tell me about Senator Abetz, surely. He has got 0.2 of a senior adviser. Can someone explain to me how you have 0.2 of a senior adviser?

Senator Colbeck—It is potentially a part-time position. I thought that would have been quite a regularly accepted process—

Senator WONG—At a senior adviser level?

Senator Colbeck—In the education system I have quite often seen staffing—

Senator WONG—Yes, I have too for SSIs and—

Senator Colbeck—and a whole range of processes and positions of part time.

Senator WONG—positions like that, but it is reasonably unusual at the senior adviser level. Is it the same person?

Senator Colbeck—I am not aware of the personnel involved.

Senator WONG—Mr Miles, is that position? For example, is it somebody who works, say, four days a week under one position then 0.2 at another or—

Mr Miles—If you look at the other table, it indicates that Senator Abetz has 1.8 of a particular category.

Senator WONG—So this makes it up to a full-time position.

Mr Miles—No, that means that it was 0.6 before; it is now 0.8—I think that is what it means.

Senator WONG—So somebody might be working, say, four days.

Mr Miles—That is what I would take from this, yes.

Senator WONG—Dr Stone got another adviser, taking hers to a total of nine; is that correct?

Mr Miles—That is correct.

Senator WONG—Mr Robb got another secretary administrative assistant.

Mr Miles—That is correct.

Senator WONG—And Senator Johnston has two assistant advisers. Can you explain to me: why is it that Senator Johnston has 10 staff with Justice and Customs when, if you look at Senator Brandis, he has only got seven and Senator Scullion only six? It just seems a rather odd differentiation.

Mr Miles—It is not information that is made available to us, Senator.

Senator FAULKNER—It gets odder as we go along. If we are going to talk about something that is really odd, I notice that the leader of the National Party in the Senate currently has nine staff. You can confirm that for us, Mr Miles?

Mr Miles—Yes, he has nine positions.

Senator FAULKNER—Nine plus four electorate staff. Just remind me of this: the leader of the National Party in the Senate—that is Senator Boswell—is not a minister, is he?

Mr Miles—No, he is not.

Senator FAULKNER—He is not a parliamentary secretary, is he?

Mr Miles—No.

Senator FAULKNER—What on earth do these nine people do? Do we know that?

Mr Miles—No.

Senator FAULKNER—The Leader of the National Party in the Senate has nine staff and does not have any executive responsibilities in government at all, but his nemesis from the Liberal Party up there in Queensland, Senator Brandis, the Minister for the Arts and Sport, has only seven staff. Is that right?

Mr Miles—That is correct.

Senator FAULKNER—And Senator Scullion has only six staff.

Mr Miles—Correct.

Senator FAULKNER—In fact, there are a number of ministers who have fewer ministerial staff than Senator Boswell, who is neither a minister nor a parliamentary secretary. Why is that? Senator Colbeck, can you explain this extraordinary situation to the committee?

Senator Colbeck—I am not certain that it is necessarily extraordinary, but it is a decision of the Prime Minister and obviously something that has been approved by the Prime Minister.

Senator FAULKNER—On an annualised basis, what do these nine members of ministerial staff in Senator Boswell's office cost the taxpayer? What is the annualised figure for Senator Boswell's ministerial staff only? We are not going to mention the four electorate staff.

Ms Clarke—We will have to take that on notice.

Senator FAULKNER—Really? Can't someone quickly work that out for me?

Ms Clarke—In addition to salary, there will be on-costs associated with it that would be underdone.

Senator FAULKNER—Of course there will be. What is the salary cost? Let us leave the on-costs aside. What is the salary cost for these nine members of staff from Senator Boswell's office?

Ms Mason—We do not have that information to hand. We have people in the department watching the hearings. If they can calculate that number quickly, I am sure they will provide it to us, and we will in turn provide it to you.

Senator FAULKNER—As the parliamentary secretary at the table, can Senator Colbeck inform us what these people do? There is an accountability issue here. We have ministers of the Crown with far fewer staff than Senator Boswell. Every parliamentary secretary has fewer staff than Senator Boswell. He has no executive responsibility at all. He is neither a minister

nor a parliamentary secretary. No-one has ever been able to explain what the hell these people do. What is their role? Why is the taxpayer footing the bill for nine ministerial staff for a person who is not a minister and not a parliamentary secretary? Why?

Senator Colbeck—The Prime Minister, as I think we have discussed at previous hearings on this matter, has made an allocation to the Leader of the National Party, as is his discretion, and you are looking at the results of that in the sheet there today.

Senator FAULKNER—You are representing the government. I know the Prime Minister has made the decision. We all know that. Thank you for that. That is helpful information, but it does not come as a real surprise to any of us. So we know who made the decision. I am asking what the basis of it is and what on earth these people do. How do we justify the huge expenditure—which someone will quickly work out, not including on-costs—for a senior adviser, two advisers, five assistant advisers and one secretary admin assistant? What does that cost the Commonwealth on an annualised basis, not including on-costs for these nine staff? There is a lot of public money here. We are talking about hundreds of thousands of dollars of public money. What for? For a person who is not a minister and not a parliamentary secretary.

Senator Colbeck—As I said, that is a decision for the Prime Minister, and potentially that question should go to the Department of the Prime Minister and Cabinet.

Senator WONG—No, it should not.

Senator Colbeck—The Prime Minister has made the decision to allocate that staffing level.

Senator FAULKNER—How do you justify this expenditure of public money?

Senator Colbeck—It is the prerogative of the Prime Minister to make that allocation.

Senator WONG—But, Senator Colbeck, you are the representing frontbencher at the table.

Senator Colbeck—I understand my position here.

Senator WONG—The point is this: the Leader of the National Party has no portfolio responsibilities and is not a minister or a parliamentary secretary, so he has no executive responsibility within government, yet he has more staff at more senior levels allocated to him than a number of ministers, including the Minister for the Arts and Sport, the Minister for Community Services and, in fact, the minister you are representing today, the SMOS, the Special Minister of State. Surely you must be able to justify this sort of expenditure of public moneys, because from the outside it does look somewhat wasteful.

Senator Colbeck—That is your interpretation of it.

Senator WONG—How do you justify it, then?

Senator Colbeck—You asked me to let you finish your question before; let me finish my answer. We went through this at some length at the time the allocation was made after the last election, and there was some discussion and questioning about that. The Prime Minister made an allocation to the Leader of the National Party in the Senate, by virtue of the fact that they

had reached party status in the Senate, and allocated him some staff on that basis. That staffing level has been at that level since that time.

Senator FAULKNER—For the first time ever, we are asking for a justification for it.

Senator Colbeck—I just gave you an answer.

Senator FAULKNER—That is not a justification; that is telling me the history of it which, with respect, I already knew.

Senator Colbeck—And, as I said, the Prime Minister made an allocation of the staff by virtue of the fact that Senator Boswell was the leader of a party that had gained party status in the Senate, made an allocation on that basis and, as I have said, the numbers have remained at that level since.

Senator FAULKNER—I spent the best part of a decade as the leader of a party in the Senate that had party status—the Australian Labor Party. I can assure you that I did not have that many staff, and I can tell you that I did a lot more work than Senator Boswell. So can you justify it or not?

Senator Colbeck—I do not seek to cast any aspersions on your work rate, but I do note that the Democrats did have an allocation of staff when they had party status in the Senate which was larger than the allocation that the National Party have at this point in time.

Senator FAULKNER—What does ‘party status in the Senate’ actually mean? What does that mean in terms of responsibilities?

Senator Colbeck—My recollection of the conversation that we had at the time that we initially had this discussion is that they had five members.

Senator FAULKNER—But what increased workload does that bring? Senator McGauran has nicked off from the National Party, enjoying your party, the Liberal Party—

Senator Colbeck—And therefore is not counted in those numbers.

Senator FAULKNER—so that should reduce the workload. What sorts of increased responsibilities does it bring?

Senator Colbeck—As I have said—

Senator FAULKNER—Trying to match Senator Joyce on the hustings?

Senator Colbeck—You can make all the insinuations you like about what—

Senator FAULKNER—I am asking what it means.

Senator Colbeck—And I have said that the Prime Minister made a decision to allocate staff on the basis of the party status of The Nationals in the Senate after the last election, and those numbers have not changed since that period of time. If you want to ask individual members or senators about their workloads, you can ask them, but—

Senator FAULKNER—As a matter of fact, I cannot ask individuals. That is wrong and you know it is wrong. I cannot ask Senator Boswell about his workload. The only accountability we have is right here, right now, before this committee to try and get an explanation as to why a nonminister, a non-parliamentary secretary, has nine members of staff, costing the taxpayers hundreds of thousands of dollars per year on an annualised basis.

The only place I can get any accountability for this and try and find out the reason for it and what these characters do, apart from working in the interests of the National Party, is here.

Senator WONG—I just want to check something: what is a senior adviser's salary currently?

Senator Colbeck—It depends on the scale. There is a scale of salaries for senior staff.

Senator WONG—I could not see it in the MOPS document I was looking at, but I might—

Senator FAULKNER—Is that senior adviser, non-cabinet?

Senator Colbeck—There are a number of scales for those—

Senator WONG—Is the senior adviser that Senator Boswell has cabinet or non-cabinet?

Senator FAULKNER—He has: senior adviser 1, non-cabinet. I think that is the correct title

Mr Miles—We do not have the figures with us at the minute, but I think we are able to get them fairly quickly.

Ms Mason—Yes, we should be able to get those quickly.

Senator WONG—I have some figures in front of me which give a rough calculation of the staffing levels that Senator Faulkner sought. Are you undertaking those at the moment?

Mr Miles—Yes.

Senator WONG—We will come back to that.

Senator FAULKNER—Just for the record while we are here, I note that in relation to government personnel positions there is one former office holder and one assistant adviser, which I think was consistent with the last tabulation that was provided. Is that right? That is not new, is it?

Senator Colbeck—What was the question, I am sorry?

Senator FAULKNER—If you go to the line under Leader of the Nationals in the Senate, you will see 'Former office holder.'

Senator Colbeck—Yes.

Senator FAULKNER—That has been consistent since the February—

Senator Colbeck—There has been no change there.

Senator FAULKNER—For the purposes of the record, can you say who the former office holder was?

Senator Colbeck—No, I do not have that information here.

Senator FAULKNER—I am sorry—that one I will insist that you provide.

Mr Miles—We will be able to get that very quickly.

Senator WONG—You do not have that?

Mr Miles—Not here, but we will be able to get that back to you very quickly.

Senator FAULKNER—There are two positions in relation to former office holders in opposition personnel positions. I believe they are Mr Beazley and Mr Crean. You can confirm that.

Mr Miles—That is correct.

Senator FAULKNER—I am just asking who the former office holder is in relation to the government staff.

Ms Mason—We will tell you as soon as we have that information.

Mr Miles—We believe it is Mr Anderson.

Senator FAULKNER—Thank you.

Senator WONG—While Senator Faulkner is gathering his thoughts—

Senator FAULKNER—I am not gathering any thoughts.

Senator WONG—I want to know why Senator Mason is so much worse off than Mr Pyne. Am I reading this correctly?

Mr Miles—Yes, if you are reading that, as it relates to the office of the Parliamentary Secretary to the Minister for Health and Ageing, Senator Mason has fewer staff positions than Mr Pyne.

Senator WONG—He has lost more than half of them.

Senator Colbeck—Mr Pyne was an assistant minister and had responsibilities at that level.

Senator WONG—What were those?

Senator Colbeck—Mr Pyne is the parliamentary secretary in the portfolio and there is obviously a difference in the responsibilities that they are undertaking.

Senator WONG—We have had before the discussions about what ‘assistant minister’ means other than that it is a fancier title and possibly a larger office. There are no additional parliamentary responsibilities.

Senator Colbeck—You do not know what responsibilities or portfolio responsibilities are involved.

Senator WONG—That is fine, but I can tell you what has been asked in relation to Minister Cobb. We went through it last night, on water, in terms of the portfolios he has. Frankly, Senator Colbeck, I think you have probably got more work, but we will leave that to one side. We have a situation where Senator Mason now has less than half the number of staff that Mr Pyne had to do the same job.

Senator Colbeck—That is an assumption that I am not prepared to make without having a look at the portfolio responsibility distribution.

Senator WONG—Did he do something to offend someone?

Senator Colbeck—No, it is a fact. If you want to look at the portfolio responsibility distribution, then perhaps you can make a judgement. But, until you do that, you cannot.

Senator WONG—Senator Faulkner may have dealt with this before. What are these task forces?

Mr Miles—You are referring to the additional position of assistant adviser?

Senator WONG—I am referring to both, actually. There is the additional position and the original position—an adviser and an assistant adviser.

Mr Miles—There are now two positions—

Senator WONG—Yes, I can see that.

Mr Miles—allocated to task forces. I would point out that at the moment they are both not staffed. One of them was originally allocated to Mr Robb some time ago before he became part of the ministry. It has remained not staffed since that time. The additional position allocated over the past couple of months was allocated to Senator Heffernan in his role as chairman of the Prime Minister's task force on Northern Australia.

Senator WONG—So Senator Heffernan gets an assistant adviser to run this PM's task force; is that what you are telling us?

Mr Miles—That is correct. He gets a position in recognition of his role.

Senator Colbeck—There is a position available to him to employ someone.

Senator WONG—And Mr Robb: what was that position for; which task force was that?

Mr Miles—I cannot recall, I am sorry, but it was before he became part of the ministry. It was before Mr Robb—

Senator WONG—Became part of the ministry.

Mr Miles—Yes.

Senator WONG—But you do not recall which task force—

Mr Miles—It was some time ago now.

Senator WONG—But it is still there.

Mr Miles—That is right. It has not been withdrawn from the establishment. It is not staffed; it has not been staffed for some time.

Senator WONG—And Senator Heffernan's position is not staffed either.

Mr Miles—Not at the minute. It wasn't yesterday.

Senator WONG—Which department is servicing this task force? Presumably DEWR is.

Mr Miles—I do not know.

Senator WONG—I am just trying to work this out: if you have got a department staffing or providing logistical support to a task force, why would a senator require an additional staff member?

Mr Miles—That is not something that we would know.

Senator FAULKNER—I appreciate the document is dated 1 May 2007. Has there been any increase in the overall number of government staff from 1 May 2007 in the ensuing three weeks that you can report on?

Mr Miles—I do not have that information with me. Our focus has been on preparing that—

Senator FAULKNER—I appreciate that and I also appreciate you have to find a date as close to the estimates round to provide accurate information. As you know, I accept that that is fair enough in the circumstances. I am just asking whether you are aware of any changes subsequent to that.

Mr Miles—No, I am sorry.

Senator WONG—Mr Cobb is an assistant minister, yes?

Mr Miles—That is correct.

Senator WONG—He is still listed as a parliamentary secretary here.

Mr Miles—In terms of the entitlement—

Senator WONG—They are treated as a parliamentary secretary, aren't they?

Mr Miles—That is correct.

Senator WONG—Is he the only one? Who else is an assistant minister now that Mr Pyne has moved up in the world?

Mr Miles—I believe Ms Gambaro is.

Senator FAULKNER—The title is just a sop.

Ms Mason—We have some answers to some of Senator Faulkner's earlier questions if this is a convenient time.

Senator FAULKNER—Thanks very much.

Ms Clarke—The maximum cost of salaries for Senator Boswell's nine positions—assuming top of the range for these; I note, however, that he has actually got three vacant positions at the moment and not all the employees are paid at the top of the range—is \$723,674.

Senator FAULKNER—That is an annualised figure?

Ms Clarke—That is correct.

Senator WONG—\$723,674—that includes PSA, presumably?

Ms Clarke—I would think that just includes salaries.

Senator WONG—That does not include PSA?

Ms Clarke—That does not include PSA.

Senator FAULKNER—So it is salary with no on-costs effectively?

Ms Clarke—That is correct.

Senator FAULKNER—\$723,674 per annum for nine staff, and nobody can tell me what they do for this non-minister and non-parliamentary secretary, who has more staff than some ministers and every parliamentary secretary. The figure, by the way, is \$881,174 with PSA. I repeat that: \$881,174 with PSA. Again, that is for somebody who is neither a minister nor a parliamentary secretary, and no-one can explain what his staff do. That is an annualised figure without any of the other on-costs. There is a real accountability issue here. It is a huge amount—hundreds and hundreds of thousands of taxpayers' dollars. No-one can justify it.

No-one knows what these people are doing. There is obviously no output in the parliament that is commensurate with a fraction of that sort of expenditure. It is a scandal.

Senator Colbeck—By the same token, I do not know what the Leader of the Opposition's staff do.

Senator FAULKNER—Have a look at the output.

Senator WONG—Do you want to match output? This is Boswell. You are talking about the Leader of the Opposition. Come on!

Senator Colbeck—I know that one of them is a candidate for a federal seat.

Senator FAULKNER—Good.

Senator Colbeck—That is all I know. I do not pretend to make any assumptions or otherwise. I know that another member of the opposition's staff was doorknocking on the north-west coast of Tasmania yesterday. I know that.

Senator FAULKNER—There we go.

Senator WONG—You ought to be very careful doing this.

Senator Colbeck—I know.

Senator WONG—If you want to talk about outputs, why don't we talk about how many speeches Senator Boswell has given, how many policy issues he has run with or how many portfolio issues he actually takes responsibility for. He has nine staff and he is not a minister, not an assistant minister nor a parliamentary secretary. If you want to start talking about the roting of staff—

Senator Colbeck—I am being very careful about this. You are at complete liberty, as I have said before, to make your political points, as am I.

Senator FAULKNER—You can make whatever political point you want.

Senator Colbeck—That is exactly right.

Senator FAULKNER—I do not care what you say. You would know that over a significant number of estimates rounds I have consistently raised the issue in relation to Senator Boswell's ministerial staff numbers.

Senator Colbeck—That is exactly right and I accept that.

Senator FAULKNER—I have never received any answers about it, and I still have not. The facts are simple: one, Senator Boswell is not a minister; two, he is not a parliamentary secretary; three, he has nine staff; four, he has more staff than any parliamentary secretary in this country; five, he has more staff than a number of ministers; and, six, we do not have a clue what he does and you cannot say what he does. There is no accountability for \$723,674 annualised on salaries or, if you like, with PSA, \$881,174 on salaries. Frankly, this is the only place we can try and get answers to these questions. However, you have said you cannot provide answers. It begs the question what these characters are doing. I have said before that I believe they are either working on internal National Party machinations or trying to knock off the Liberal Party in Queensland. I just hope the hell they are doing something because there is

an awful lot of taxpayers' money being spent on it. That is all I have on staff. Senator Wong no doubt has more.

Ms Clarke—Senator Wong, could I go back to the costing of additional positions. I mentioned that that was done in the budget context, and it is. It is actually done at additional estimates or in time for additional estimates. So it will not actually be done until closer to that time in the year. Then it appears in the portfolio additional estimates. So it has not been done yet.

Senator WONG—For which ones?

Ms Clarke—For the additional persons for the government and the opposition, approved by the Prime Minister.

Senator WONG—So you cannot do it for me?

Ms Clarke—Not this time.

Senator WONG—But you can do it?

Ms Clarke—Yes, later in the year.

Senator WONG—This is an accountability mechanism—is it not?

Ms Clarke—Yes.

Senator WONG—I think people should be entitled to know what the additional cost is of the variances to government staffing that have been provided.

Ms Clarke—Indeed. We could do it, but it is just not available now because it is done in the budget cycle, and that is not due just yet.

Senator WONG—It is 7.2 at a particular position level—but net, in terms of various positions.

Ms Clarke—Yes.

Senator WONG—Can you provide that on notice?

Ms Clarke—Yes.

Senator FAULKNER—Could I have an update on another issue that has been raised. I appreciate there may well be limitations to what can be said here. I want a status report on the situation in relation to three Queensland MPs. It has been raised before and it has also been raised at estimates in relation to the Australian Electoral Commission. Do Ministerial and Parliamentary Services have any involvement currently in relation to this particular issue that you are able to share with the committee?

Mr Taylor—I might be able to assist you there. MAPS continues to assist the Australian Federal Police with its investigation.

Senator FAULKNER—So you can confirm that it is an ongoing police inquiry? This is critical in terms of any questions that we ask at this committee. The parliamentary secretary and I think committee members would be aware that, unlike the current government, this opposition has never overstepped the line into current, ongoing—operational, if you like—police matters. I do not want to do that and I will not do it. That is why I have asked the

question in the form that I have. It is not the practice of the opposition to ask questions that trample into those areas. If there is an ongoing police investigation, we will cut our cloth accordingly.

Mr Taylor—I can confirm that MAPS continues to assist the AFP with its investigation, but I cannot say anything about the stage that the AFP is up to. That is a matter for the AFP and for the Minister for Justice and Customs.

Senator FAULKNER—I did not ask about what stage any investigations might be up to. But I hear what you say. Are you able to be a little clearer, Senator Colbeck? It might inform any questioning at this committee.

Senator Colbeck—I cannot add any further information to that at this point in time. I am not privy to any further information other than what the officer has just given to you.

Senator WONG—Mr Taylor, I think your evidence to Senator Faulkner was that MAPS continues to assist the AFP with their inquiries.

Mr Taylor—Their investigation.

Senator WONG—Is there a particular staff member in the department allocated with responsibility for this assistance?

Mr Taylor—I liaise with the Australian Federal Police officer.

Senator WONG—When did that liaison commence?

Mr Taylor—I could not give you the exact day that it commenced. I could give you the day that the matter was raised with Ministerial and Parliamentary Services.

Senator WONG—Which was?

Mr Taylor—It was 17 November last year.

Senator WONG—Has the liaison extended to the provision of any documents?

Mr Taylor—It has.

Senator WONG—Have any subpoenas or similar documents or warrants been served on MAPS?

Mr Taylor—No.

Senator WONG—Has MAPS been asked to assist in the preparation of such subpoenas or other documentation?

Ms Mason—Senator, I think we are getting into difficult territory in terms of there being a current police investigation underway. We do have certain information, but how much is appropriate to place on the public record—

Senator WONG—I am trying to be very careful about what I ask. I am not going to ask what documents. I am just trying to clarify whether you have been involved in preparing subpoenas or similar documents.

Mr Taylor—Certainly not subpoenas.

Senator WONG—Has MAPS sought any legal advice?

Mr Taylor—Legal advice in the sense that I am the branch manager in the legal and contracts area. We have not sought external legal advice.

Senator WONG—So you have advised yourselves, as it were?

Ms Mason—We have our own lawyers on staff.

Senator WONG—In house?

Ms Mason—Yes.

Senator WONG—Has there been any liaison with legal representatives of any other parties?

Mr Taylor—No.

Senator WONG—Other than the AFP, presumably.

Mr Taylor—There has been no liaison with any other legal parties.

Senator FAULKNER—I saw an advertisement—which was fair enough—but in this case a parliamentary secretary was advertising in a major metropolitan daily newspaper—perhaps in more than one—for an EOA position with a starting salary of up to \$50,974. I was surprised at this because we thought that the salary should be \$44,325, which is salary 0.7. Salary 0.7 was the maximum that was allowed. My understanding, from informal advices sought from M&PS, is that this is not allowed for anyone other than a member of the Executive Council. Can someone confirm whether that is right or wrong? Perhaps I should put my question more clearly, having given you that background. That may not be clear enough. Is there a different maximum starting salary with an EOA position for a minister or parliamentary secretary compared with a shadow minister? It is a little complex, I suppose, Ms Mason, but are you clear on what I am asking?

Ms Mason—Yes. I am clear on the question. At the moment, I am not quite so clear on the answer.

Senator FAULKNER—I was not even clear on the question.

Ms Clarke—A determination allows for ministers, parliamentary secretaries and opposition office holders to appoint their staff at any point in the salary band, and it may be that that is the issue here.

Senator WONG—And personal staff.

Ms Clarke—That includes electorate, as well.

Senator FAULKNER—This is not a major point, but I would have thought that that was intended to apply depending on the qualifications that that particular staff member might have, or the particular individual circumstances. I know that background. I understand your answer and I thought that might be the situation, but this position was actually advertised. Do you understand the point?

Ms Clarke—I understand but I cannot account for the advertisement.

Senator FAULKNER—I am happy to provide it for you. It was on page 55 of the *Herald Sun* on Saturday, 17 February. The reason I ask this is that I want uniformity between the way ministerial and shadow ministerial staff are being dealt with. I am concerned that there may

be a lack of uniformity. I understand the point you make about opposition office holders, or office holders more broadly. I do accept that. I do not understand how that could apply to an advertisement that is placed in a newspaper. I would have thought that that was a judgement a parliamentary secretary, a minister or, for that matter, an opposition office holder ought to make on the basis of the particular qualities or qualifications an applicant brings to a position.

Ms Mason—Your logic is reasonable. I think we need to have a look at the ad. It is difficult to respond.

Senator FAULKNER—I am happy to table the advertisement. It was for the Hon. Chris Pearce, MP, Parliamentary Secretary to the Treasurer. Anyway, the issue I want to raise is that I have no particular problem with this apart from insuring that we have government and non-government members being treated the same and equitably.

Senator Colbeck—Fair question.

Senator WONG—Can you remind us of the provision about appointment within the band? Where does that authority derive from? Which guideline is that in?

Ms Clarke—The appointment within the band, generally, for senators and members, is drawn from the collective agreement, and you can point to the first three. A separate determination has been made by the Special Minister of State which gives added flexibility to ministers, parliamentary secretaries and opposition office holders to appoint staff anywhere in the salary band. It does not extend to shadow ministers.

Senator FAULKNER—No, but to opposition office holders.

Ms Clarke—Office holders, that is correct.

Senator FAULKNER—I understand that. What you say is totally logical and I would understand that to be the case, but it appears that this is in the advertisement. I assume you would not put an advertisement in a newspaper if you decided to employ a person. I do not really want to go into the background of Mr Pearce's situation. I want to understand the broad principle and make sure the application here is appropriate for the government and the opposition. So I will leave that with you.

Senator FIERRAVANTI-WELLS—I asked DPS some questions yesterday about the rollout of the new telephones. As I understand it, whilst DPS gave consultation at the initial phase of the process, they have since been required to be the support structure for the new rollout. There have been lots of problems with this telephone. I have experienced lots of problems with this phone. I was part of the pilot project of the i-Mate. I would like to understand what was learnt from that because I am very concerned that you appear to have chosen some technology without assessing fully whether it will work when you give it to members and senators.

Mr Quester—The pilot for the rollout of the mobile PDA was intended to test the functionality behind implementing Windows Mobile 5. We previously had looked at rolling out a BlackBerry Solution, which was approved by the Special Minister of State. When we presented that to the Presiding Officers Information Technology Advisory Group, they requested that we did not go ahead with that. We surveyed all senators and members to see what their needs were for a mobile PDA. The results of that survey indicated that a Windows

Mobile 5 solution would better address the needs because of the additional functionality that the handsets provide. The pilot was run on the GSM mobile network and proved that the push email, push calendar and push contact successfully worked, and the device was meeting the needs.

When we went to the rollout of a full production on entitlement, we had to address the market and request a proposal to see which starter carriage we should use through the mobile carriers. Telstra was the successful tenderer on that occasion. We then had to look at what coverage was able to be provided in the electorates. Telstra had indicated that they would be switching off the CDMA network in early 2008. That would leave us unable to provide these devices to senators and members that currently have CDMA phones. So that pushed us towards putting this on the Next G network, which is replacing the CDMA network.

When we did the request for a proposal, we stated that it had to cover those electorates. The devices are supposed to roam between the 3G network and the GSM network. A bug has been identified within the devices; they are not roaming back to the GSM network. A patch has just been released by i-Mate and we are looking at patches from Palm—the other provider of devices to us—that will address those issues, so that it will roam back to the GSM network if there is no 3G network available.

Senator FIERRAVANTI-WELLS—There are problems even in Parliament House. To have to make five or six phone calls and carry on a three or four minute conversation when the signal drops out five or six times is not only frustrating for people who spend a lot of time on the road, but is adding to costs that the department has to bear to allow us to communicate. This has been an ongoing issue. I was part of the pilot project and I have been part of the new rollout. I can tell you that for the last six months I have had nothing but problems. I have registered those problems. I am very concerned that this is a major problem. And now I find that the new rollout does not even work properly here in Parliament House. I think you have some serious issues. I want to raise them in this forum because I really think you need to seriously look at this. When you do rollout new devices, please make sure that you look ahead and look at the functionality of what is required so that we are not going to be left stranded—overseas, as some of us were recently—without proper working devices.

Mr Quester—I will take those comments on board. We are already meeting with the Department of Parliamentary Services and Telstra to look at ways of addressing the issues that we have experienced. I know that the Department of Parliamentary Services have been speaking with Telstra about black spots on network coverage within Parliament House and, again, I am speaking with Telstra on perceived issues with coverage across what we have in the electorates with phone dropouts and devices.

Senator FIERRAVANTI-WELLS—In fairness to the support staff, my understanding was that these had been rolled out. They had about three days training before they needed to provide us with assistance. I was overseas. I had to go to Telstra and I had to come here to try and get a simple solution to get messages. What is the time frame? What are we looking at?

Mr Quester—DPS have already approached us with issues about how we are supporting this and the amount of calls that we are getting, so we have brought in additional resources solely for supporting the devices. DPS have brought those on board now and they were

involved in the most recent rollout during the last sitting period. Those people have been trained up by DPS and they are looking at bringing those product specialists in to ensure any further advancements we do on this—we are expecting Mobile 6, the next release from Microsoft to come out mid this year, and that is what the new devices will be running. Mobile 5 is the first release of this technology, so we are looking for those enhancements that Mobile 6 will bring. When we have rolled this out we will virtually be at the cutting edge of what is being delivered out in the marketplace.

Senator FIELDING—Are you saying to wait a few more months?

Mr Quester—No. We are working to resolve the issues that people like yourself have reported.

Senator FIERRAVANTI-WELLS—I shall keep a keen eye on it. Thank you.

Senator FAULKNER—My colleague Senator Hogg has asked me to raise an issue with the committee. This goes to a tax invoice being sent to Senator Hogg for the grand sum of \$4.88, which he paid as soon as he got it. That, of itself, is not a particularly remarkable thing. What is remarkable is that an extraordinary amount of paperwork and effort that has gone into ensuring that Senator Hogg stump up with the \$4.88. This is a recovery of moneys for an overseas trip made in July 2005. It is a very small amount. I want to stress that neither I, nor Senator Hogg, in any sense, believe that the amount should not be paid. The question here is whether the amount of work involved in this—and I understand it is not a unique circumstance—is warranted. Obviously a lot of paperwork and a huge amount of effort has gone into it, and I wondered about value for money in these circumstances. I understand it is not an isolated incident. It does not relate just to a member of the opposition; I understand there are others who have had similar circumstances. Again, there is no suggestion that it is not appropriate to pay moneys, and Senator Hogg would be the last person to make such a suggestion. But in this case, is it an example of departmental effectiveness and competence being so good that it might actually be a little self-defeating? I just wonder about it, more than anything else, and that is why I thought I would raise it here.

Ms Mason—I understand the point you are making about materiality and the cost of processing those small invoices. On the other hand, the department has an obligation under the Financial Management and Accountability Act to recover debts owed to the Commonwealth. Whether there is a better way of doing that, whether we should hold a small invoice and send it out with another one at a later time or whether we should look at seeking agreement to offset it against some other payment is something we can look into. I appreciate the point you are making.

Senator FAULKNER—This is just an example. As I say, I do not want anyone to misinterpret this. There is no suggestion that Senator Hogg would not pay this \$4.88. I am not suggesting that either. But it is clear to me that in terms of the administrative burden, it would have amounted to a great deal more than \$4.88 in staff resources and time. I understand, Ms Mason, the answer you give and I understand that it is a question of balancing some important imperatives.

Ms Mason—We will take a look at it. There would be a point at which it costs us more to recover than the amount that we receive, but is that grounds to write off a debt to the

Commonwealth or not, or should we be holding it back and sending it as a job lot with something else? We will take a look at what could be done.

Senator FAULKNER—I am not suggesting any debts to the Commonwealth should be written off. I stress that. It is just that there have been one or two examples that have been drawn to my attention and I asked Senator Hogg whether he would mind me raising this one here because it is not a completely isolated incident. Because he paid his \$4.88 tax invoice with such alacrity, I thought it would probably be a good one to use.

Ms Hughes—We have more scope with staff because we pay staff salaries, so we are able to deduct those amounts, with their consent, from their salary and also from further payments of travelling allowance.

Senator FAULKNER—I will leave that with you. Thank you.

Proceedings suspended from 12.29 pm to 1.32 pm

CHAIR—We will resume with the Department of Finance and Administration, Ministerial and Parliamentary Services.

Senator WONG—Just one question in relation to government staff, and that is the rationale behind Government Whips getting seven whip's clerks.

Mr Miles—Sorry; your question was?

Senator WONG—Why are there seven clerks for Government Whips?

Mr Miles—That is not information that we are provided with.

Senator WONG—The opposition and the Senate have one, I think—yes?

Senator Colbeck—As I think does the government.

Senator WONG—Therefore, the government has what, five? How does it work?

Mr Miles—Yes, the Opposition Whip in the House of Reps has one whip's clerk.

Senator WONG—So the opposition gets one in the reps and one in the Senate. So there are five? The government gets one in the Senate—was that the evidence—and therefore they get six for the House of Reps? What do they all do?

Senator Colbeck—Again, it is an allocation by the Prime Minister. I know that you do not necessarily want to hear that as an answer, but that is effectively the response.

Senator WONG—Can we just clarify: the opposition has one whip's clerk in the Senate and how many in the House of Representatives?

Mr Miles—Sorry, Senator; the opposition has a whip's clerk in the House of Representatives.

Senator WONG—And a whip's clerk in the Senate? No?

Mr Miles—No.

Senator WONG—Okay. So we get one in the House of Representatives, none in the Senate, and the government gets seven?

Mr Miles—Yes.

Senator WONG—So essentially we are six whip's clerks behind.

Senator Colbeck—Senator Wong, I would refer you back to the overall proportion of staff—

Senator WONG—Yes, we know—

Senator Colbeck—and how you allocate those staff, obviously, is your prerogative.

Senator WONG—Let's be clear, Senator Colbeck. What we have is almost a 30 per cent increase in government staff over the life of this government, from when you came to government.

Senator Colbeck—And the opposition's staff has increased by 32 per cent.

Senator WONG—I think, if you look at the difference, it is quite substantial in terms of raw numbers.

Senator Colbeck—In raw numbers, you are right; but there is a ratio that has existed since the Howard government came to office in 1996, and the opposition numbers have been increased in accordance with that ratio every year.

Senator WONG—And the government has 469.3 taxpayer funded government staff.

Senator Colbeck—And the opposition has had a proportionate increase on an annual basis.

Senator WONG—I have nothing more in MaPS. Thank you very much.

Dr Watt—Senator, I wondered if I might give you an answer to one of the questions you asked us this morning, if you are interested, on the break-up of the capital items in relation to the additional resources for members of parliament.

Senator WONG—Do you have a document you could table?

Dr Watt—You would not make any sense out of this, Senator.

Senator WONG—You never know what I could make sense out of!

Dr Watt—I can assure you you would not make any sense out of this! We are happy to take it on notice if you would prefer, but I can give you a brief summation now, if you want.

Senator WONG—Okay—very brief, though.

Dr Watt—There are three components. First of all, relocation costs—

Senator WONG—Sorry; I am going to have to ask you to take it on notice, if you could.

Dr Watt—All right, we will take it on notice.

CHAIR—Thank you to MaPS. I will now call the Future Fund Management Agency.

[1.40 pm]

Future Fund Management Agency

CHAIR—Welcome, Senator Minchin and Mr Costello. Do you have an opening statement for this section?

Senator Minchin—No.

Mr Costello—No.

Senator SHERRY—Mr Costello, I want to go to the issue of the appointment of Northern Trust as the custodian of Australia's \$51 billion 'pension fund'.

Senator Minchin—It is called the Future Fund, for the record.

Senator SHERRY—Australia's \$51 billion Future Fund. Mr Costello, were you aware that Northern Trust were the trustees of the Enron 401(k) pension plan fund, the largest pension fund collapse in the last decade, in which some 20,000 employees lost up to \$1.6 billion, and that Northern Trust were sued for breach of fiduciary care and duty in their responsibility to pension fund members and ultimately settled an approved settlement of some \$37.5 million, which they agreed to pay to the new trustees of the Enron pension fund? If you were aware of that—you are nodding assent—why were they appointed custodians of Australia's \$51 billion Future Fund?

Mr Costello—As part of the review of providers, one of the questions we asked was: what action, if any, was outstanding? We were particularly interested in their insurance provisions. This, therefore, came up as part of that, although at that time, I think, some aspects of it were still confidential. What was clear, and what ultimately gave us comfort, was that this was around a change of arrangements by the Enron 401(k) plan, the company-sponsored plan at Enron. Northern Trust had been told that they needed to prepare the book of records for transfer of that back-office responsibility, and part of that was trying to rule off activity, pending the transfer. Our understanding of what happened is that, during the time of ruling off the books ready for transfer to an alternative provider, the company's troubles came to the fore. The argument and the basis for the class action was that, because it was caught in this hiatus between providers—and under general provision no redemptions can occur at that time—the employees felt that they had lost the ability to redeem assets during this period of time.

So it was essentially caught up in a transitional period. It was a transfer of back-office providers and Enron was named as part of the class action. Our understanding is that they settled this, as you say, on the terms outlined and that that claim was fully met by the insurer of Northern Trust. In our view that posed no questions about the behaviour of the organisation or any damage to their financial security, and it gave us no cause for concern that this would not be an organisation to provide security of our assets.

Senator SHERRY—I would like to explore this in more detail, but what is your understanding of why Northern Trust agreed to a settlement of \$37.5 million?

Mr Costello—We do not know exactly what led them to make that call. I can only repeat that I do not know. I can only imagine that, as with a lot of legal action, particularly with a class action, organisations look at what they might spend being involved in defending things and make a commercial call about trying to remove that from the things that they are looking after. But, really, this is not an issue that we explored with them. I have no further insight apart from that.

Senator SHERRY—You say you do not know. This was by any description a truly spectacular collapse of a pension fund, and the trustee in this case was Enron. Surely you

would seek advice as to the way and manner in which they had allegedly breached their fiduciary duty to the pension fund members?

Mr Costello—I think the claim was that they had breached them. We were satisfied that they were caught, at a difficult time, responding to an instruction from the sponsor of the plan to prepare a book of records for transfer; the timing was unfortunate. I say again: we were not concerned that this represented a risk to us in terms of the arrangements that we were seeking to put in place with Northern Trust.

Senator SHERRY—Given Northern Trust accepted liability to the extent of \$37.5 million and the matter was settled, did you investigate any of the allegations against Northern Trust and their activity throughout that period in any detail?

Mr Costello—Sure. Northern Trust made it clear that they in no way accepted guilt or responsibility. They settled the action but they in no way accepted guilt, if that is the right word, for the action. Again, this was a matter that was settled by the insurer; we did not investigate it further.

Senator SHERRY—Again, I press you on why you did not, because you can settle an action as Northern Trust did, but surely at the heart of the issue is the alleged activity of Northern Trust—and I will go to the activity it is alleged that Northern Trust got up to shortly. I am just a bit surprised that you did not examine the alleged activity that Northern Trust engaged in, which, I understand, was a little bit more complex and wrapped in subterfuge than you have been led to believe.

Mr Costello—Sure. Again, we required, as we did with all providers, an exploration of what action was outstanding. These are very large organisations. At any point in time, many of them have actions which are open. We seek some understanding of those and how they would affect our activity. Again, on the information that we were provided, that is where we left it. Based on the information we were provided, we remain quite comfortable that the security of these assets will in no way be affected by any of these issues.

Senator MURRAY—Did you do independent due diligence when you were letting this contract, which is worth millions to them?

Mr Costello—I am trying to think about the best way to answer that question. We undertook an extensive review, so independent due diligence in our case was the engagement of a specialist consultant to help us gather information about each of the providers, all of their services and a whole range of issues. So the external input we sought was by an independent specialist consultant in the area.

Senator MURRAY—As you know, Mr Costello, ‘due diligence’ means an assessment of the claims and the substance of the claims the provider makes as to their assets, capabilities or anything else. It is a very precise term and normally conducted by experts in the field. So did you do due diligence in that sense?

Mr Costello—Not in that sense.

Senator SHERRY—Again, I press you on why you did not—not you personally. Who were your advisers in this matter?

Mr Costello—We used a firm called Thomas Murray Ltd.

Senator SHERRY—Did Thomas Murray bring to your attention any aspect of Northern Trust's activities as part of the Enron pension collapse?

Mr Costello—No. That was something that came out during our discussions with the bank.

Senator WONG—With Northern Trust?

Mr Costello—With Northern Trust. It was part of the questions that we asked in terms of what actions needed to be brought to our attention, what actions, if any, were outstanding and what were their insurance arrangements. So that is where it was covered.

Senator WONG—Before that was raised, did you know at the time the discussions commenced of their history in relation to Enron?

Mr Costello—No.

Senator WONG—You were not aware of that?

Mr Costello—Could you repeat the question in terms of when we would have been aware?

Senator WONG—Prior to you having discussions with Northern Trust, were you aware of their history with Enron?

Mr Costello—No.

Senator WONG—It is a simple Google search.

Mr Costello—Again, I need to clarify the question. We obviously sent a tender document to the bank and asked them a range of questions. Part of that was to discuss any litigation arising. So out of that process we became aware.

Senator SHERRY—I just want to be clear on the process. The specialist consultant, you are saying, did not draw your attention to their involvement in the Enron pension collapse?

Mr Costello—No.

Senator SHERRY—They did not? Why not? How much did you pay this consultant?

Mr Costello—We paid them a fee of \$170,000 plus GST plus any travel costs that they incurred.

Senator SHERRY—And they did not draw to your attention any aspect of the involvement of Northern Trust in the Enron pension fund collapse?

Mr Costello—The role of the consultant was to help us to prepare a tender document, which they did. It was to collate the responses from the tender document, which they did. That was extensive. The tender document ran to many hundreds of questions. If you multiply that by five providers that was quite a big job. Then as a result of that they were to come back and report to us essentially what information was forthcoming. During that process, one of the issues was issues of outstanding litigation. We were alerted to the fact that there were issues and we explored those with Northern Trust directly. It was not specifically mentioned in the response from Northern Trust. It came up in further discussion.

Senator SHERRY—It was not mentioned by the specialist consultant. I must say that I do express my surprise that a consultant paid that sum of money could not identify at least an issue that begged a set of questions involving Northern Trust and the Enron pension fund. But

they did not. I would question the value of your money, frankly. Anyway, you then directly raised it with whom in Northern Trust? Was it you personally, by the way, or you and other officers?

Mr Costello—Other officers. This project was led by the head of operations for the fund because it is the operations area that will basically have the relationship with Northern Trust. As part of their review and discussions the issue of outstanding litigation was discussed, as it was with the other shortlisted provider.

Senator SHERRY—My understanding is that the litigation was concluded because of the settlement in July 2006 and Northern Trust's payment of settlement—it does not cover the \$1.6 billion, of course, but it was \$37.5 million—did not beg a warning to you about examining in further detail the alleged activities they got up to as trustees of the Enron pension fund?

Mr Costello—Again, I am not sure what the specific activities are that are being referred to.

Senator SHERRY—I am going to go to them.

Mr Costello—Our understanding of those specific activities—and we were satisfied with that—was that that would not cause us any concern.

Senator SHERRY—As part of your investigation, once it was drawn to your attention by Northern Trust, did you examine any of the court documents involving the activities of Northern Trust and their role as trustee of the Enron pension fund?

Mr Costello—No.

Senator SHERRY—You have already referred to the issue of the transition or changeover of Northern Trust as the trustee of the Enron pension fund and the transition to a new trustee. Are you accepting that you had knowledge of that?

Mr Costello—Yes. I am not sure if 'trustee' is the correct term, but certainly as a provider—

Senator SHERRY—Provider trustee administrator?

Mr Costello—Yes.

Senator SHERRY—Are you aware that the allegations go to Northern Trust and the so-called lockdown period. When there is a transition from one trustee administrator to a new trustee administrator there is a lockdown period that prevents trade in Enron shares as part of the pension fund. I think that was what you were referring to earlier.

Mr Costello—We understand that is the issue, yes.

Senator SHERRY—Are you aware that one of the allegations against Northern Trust is that they deliberately conspired, together with the Enron management, to lengthen that lockdown period to prevent the employees who were members of the Enron pension fund from selling their Enron shares?

Mr Costello—I am not aware that that was an allegation made.

Senator SHERRY—Now that I have raised this issue, will you further investigate the role and the allegations made, which Northern Trust settled with compensation of \$37.5 million? Will you investigate the specific allegations made against the role of Northern Trust in their handling of that lockdown period during that Enron fund collapse?

Mr Costello—Certainly.

Senator SHERRY—Thank you. Further to Northern Trust, are you also aware that they were engaged in making loans to Enron Corporation?

Mr Costello—No.

Senator SHERRY—Will you undertake to investigate the role of Northern Trust in terms of the loans they made to Enron Corporation and their role in the subsequent collapse of Enron Corporation as distinct from the pension fund?

Mr Costello—Certainly.

Senator SHERRY—Are you aware that the class action lawsuit against Northern Trust was in conjunction with several lawsuits against Mr Ken Lay, Mr Jeff Skilling and Arthur Anderson?

Mr Costello—Not specifically.

Senator SHERRY—They were joint defendants; you are not aware of that?

Mr Costello—No.

Senator SHERRY—Are you aware of what happened to Mr Ken Lay, Mr Jeff Skilling and Arthur Anderson?

Mr Costello—I am.

Senator SHERRY—You are aware of that?

Mr Costello—Yes.

Senator SHERRY—What happened to Arthur Anderson?

Mr Costello—Arthur Anderson's business is no longer in existence.

Senator SHERRY—I think Mr Ken Lay is deceased after being found guilty.

Mr Costello—Certainly found guilty.

Senator SHERRY—And Mr Jeff Skilling is in jail.

Mr Costello—Correct.

Senator SHERRY—And Northern Trust agreed to a settlement of \$37.5 million. Doesn't it flag concerns for you that there were very serious allegations made about the role of Northern Trust in their duty of care to some 20,000 participants in the Enron pension fund?

Mr Costello—We are very clear. As I say, the issues that you have raised—I have committed to undertaking further investigation of them. As part of that process, we sought to understand the issues. We felt we had a good understanding of the issues. We felt that they were not issues that would directly affect our business, but I repeat: you have raised a number of issues that clearly requires our organisation to look at this more closely and understand

exactly what happened. Allegations are, of course, different from facts, and the fact is that these allegations were not tested in court but were settled by the organisation to try and help them to move on.

Senator SHERRY—Move on? But I am surprised, Mr Costello, that the fact that Northern Trust had to settle to the tune of \$37.5 million did not lead you to further question what the behaviour, alleged or otherwise, of Northern Trust was in respect of the Enron pension fund collapse.

Mr Costello—Your comments are noted. As I said to you before, we will certainly look at these issues and understand what impact, if any, they would have on us. I repeat: our process was to understand the issues. We were satisfied with what we found at that time. We were satisfied that the claim had been met by the insurer and we understand that organisations will from time to time make settlements as they balance the cost of defending an action against the cost of simply settling it to make it go away.

Senator WONG—Mr Costello, I am very concerned by the way in which you keep responding to Senator Sherry's questions regarding the settlement. It seems that what you are putting to this committee is, 'Well, the fact that they paid does not mean they were guilty.' Yes, that may well be the case, but the fact that they paid does not fill me or, frankly, I suspect, most Australians in the community with enormous confidence as to their innocence. One would have thought that, if you were putting in place arrangements whereby this organisation has substantial responsibility for taxpayer funds, you would want to be extremely sure that they could discharge their duties in relation to that custodianship appropriately. I would have thought you would take a little more seriously the fact that these people were party to a lawsuit in which some of the most spectacular examples of corporate fraud in recent history were demonstrated.

Mr Costello—I think that, based on what Senator Sherry said, the allegation was simply around the way that they handled requests for redemptions of shares from employees in the employee pension plan. I do not think there is any suggestion that Northern Trust were involved in any way in the operations of Enron or in any of the decisions that Enron management took.

Senator WONG—Have you read the statement of claim? The statement of claim that Senator Sherry is referring to is on the website. Northern Trust is a joint defendant with Mr Skilling, Mr Lay and Arthur Andersen. Have you read the statement of claim—

Mr Costello—No.

Senator WONG—to determine whether or not the allegations were such that they are so serious that it might have impinged upon your decision to appoint Northern Trust?

Mr Costello—No, I have not read those.

Senator SHERRY—Sure, there was settlement. In a sense, they admitted liability otherwise they would not have paid the \$36.5 million in compensation.

Senator Minchin—Mr Chairman, that is—

Senator SHERRY—Why would they pay \$36.5 million in compensation, Senator Minchin?

Senator Minchin—Mr Chairman, Senator Sherry would know in legal matters of this kind, particularly in the litigious society of the United States, settlements are made on a regular basis without any admission of liability whatsoever. For Senator Sherry to use this committee to trash the reputation of what KPMG described last night as one of the finest, most reputable companies in the world of custodianship—that is, Northern Trust—I think is stretching the barrier here. To put to Mr Costello that they obviously accepted liability, I think is quite wrong and a travesty.

Senator WONG—This is the Enron collapse. This is the Enron litigation. It is not some minor class action.

CHAIR—Do you have a question, Senator Wong?

Senator WONG—I am responding to the minister. It was hardly an answer. He is making a point; I can make one back.

Senator Minchin—This is typical trashy guilt by association that you are indulging in.

Senator WONG—It is not trashy guilt. This is taxpayers' money.

Senator Minchin—You are putting to Mr Costello that these people are guilty.

Senator WONG—This is an organisation which was sued as part of one of the largest corporate collapses in history. There were enormous examples of corporate fraud, and you are sitting here telling us that it is all fine because America is litigious and if they paid millions of dollars it might not have been that they did anything wrong.

Senator Minchin—With respect Mr Chairman to Senator Wong, do not put words in my mouth. I was responding to Senator Sherry's accusation to Mr Costello that these people are obviously guilty because they settled—

Senator SHERRY—I did not say that.

Senator Minchin—That is quite improper and should not be put to this committee or to Mr Costello in that way.

CHAIR—I agree, Senator Minchin. We need to be very careful on this committee that we do not make statements of guilt or attribute guilt to organisations where that has not been proved.

Senator SHERRY—Mr Costello, did you seek an answer from Northern Trust as to why they paid \$36.5 million in settlement in respect of the Enron pension fund collapse?

Mr Costello—When we discussed this with Northern Trust, we were satisfied with their answer, which was essentially along the lines of Senator Minchin's comment. They judged it as expedient to settle the issue and make a payment rather than be involved in a very long protracted period of defending an action. We also noted the fact that the US Department of Labor, which is the organisation that regulates pension plans in the US, investigated this issue. It conducted a lengthy and detailed investigation and the Department of Labor did not name Northern Trust as a defendant in any action.

Senator SHERRY—They did not, but there was a class action brought by Enron employees, not the Department of Labor.

Mr Costello—That is correct but the Department of Labor investigated this issue and did not see that there was a case that they wished to take forward. So a combination of that gave us a sense of comfort that—quite apart from the plaintiffs' view—this issue was one that Northern Trust was caught up with as a result of being the back-office provider to the plan during a period of transition.

Senator SHERRY—Did you specifically go to the US Department of Labor?

Mr Costello—No, we relied on the information provided to us that that investigation had concluded.

Senator SHERRY—By whom?

Mr Costello—By Northern Trust.

Senator SHERRY—So you relied on the information that the firm that settled for \$36.5 million provided without going behind and checking out the substance of the allegations made against Northern Trust.

Mr Costello—That is correct. Essentially, we were satisfied that it was not a situation that we were likely to come across. It was a very different sort of arrangement. The class action had been raised. We have had in our own earlier lives, experience of class actions and the process that they tend to run to, and so we were not troubled by the suggestion that an organisation would seek to settle a class action early on rather than see it protracted. We think that is not an unreasonable thing for an organisation to do. We did not accept that that attributed any guilt to Northern Trust in the process.

Senator SHERRY—And it did not beg any questions about the behaviour of any officials of Northern Trust and their administration of the Enron pension fund during that period of the so-called lockdown.

Mr Costello—No.

Senator SHERRY—Because the allegation is that the lockdown was deliberately contrived and protracted to prevent the employees from selling their shares as the market plummeted and they lost value in their pension fund.

Mr Costello—I understand the allegation as you put it.

Senator SHERRY—And that Northern Trust were complicit in that.

Mr Costello—I understand that is the allegation.

Senator SHERRY—I referred earlier to the loan by Northern Trust to Enron. Were you aware of that at all?

Mr Costello—No.

Senator SHERRY—They made a loan of about \$41.5 million to Enron. You are not aware of that at all?

Mr Costello—No.

Senator SHERRY—Do Northern Trust have an Australian financial services licence?

Mr Costello—Under a reciprocal arrangement with their FSA regulation in the UK, APRA has essentially approved them to operate here.

Senator SHERRY—Sorry, APRA or ASIC?

Mr Costello—I understand it is APRA.

Senator SHERRY—What about an Australian financial services licence, which is issued by ASIC?

Mr Costello—Northern Trust is going through all the regulatory approval processes at the moment. I would need to check exactly which areas they have been given dispensation for. They are well aware of the regulatory hurdles and I understand they are well on track to being addressed.

Senator SHERRY—So that I understand, you say they are well on track. Have they yet received a licence to operate in Australia?

Mr Costello—I would need to confirm that. I understand that is well on track. I am not sure exactly where that is at as of today.

Senator SHERRY—But your understanding is, in order to fulfil the contract that you have entered into with them, they will need a licence to operate in Australia.

Mr Costello—That is correct.

Senator SHERRY—So they do not yet have a licence.

Mr Costello—I cannot confirm whether they do or do not, but I know it is pending in the very near future.

Senator SHERRY—When was the last word you got on this?

Mr Costello—About a week or so ago my colleagues were telling me that that was progressing along, so it was a week ago.

Senator SHERRY—So they are applying but you do not know whether it has been finalised as yet.

Mr Costello—That is correct.

Senator MURRAY—Who told you it was pending?

Mr Costello—This is clearly an important issue for us; it is a prerequisite for activity, so this issue is being managed by our operations and legal team with that organisation.

Senator MURRAY—Has the regulator—the authority that provides a licence—told you that it is pending?

Mr Costello—No. We have not been in discussion with them directly. We look forward to production of the licence.

Senator MURRAY—So how would you know it is pending if the authority that issues the licence has not told you it is pending?

Mr Costello—We are relying on updates being provided to us about this regulatory approval process.

Senator MURRAY—But how would they provide you with updates if the authority that provides a licence has not given them that assurance? You are telling us it is pending.

Mr Costello—Yes.

Senator MURRAY—But the only person that can really verify that it is pending is the authority that issues the licence.

Mr Costello—Ultimately, that is correct, although we believe that updates from time to time about how those discussions are going can be relied on for our purposes. Ultimately, it is the production of the—

Senator MURRAY—Is this APRA?

Mr Costello—I need to be clear in my own mind about the relationship between APRA, ASIC and the approval process.

Senator SHERRY—You have given this group a contract to be custodians of the \$51 billion Future Fund but you are not sure as to who is actually going to be issuing the licence to allow them to operate in Australia.

Mr Costello—I need to clarify that. Clearly, this relationship will not commence until all regulatory hurdles have been met. I am aware that APRA, and perhaps ASIC, have reciprocal arrangements with regulators in other countries that allow an organisation approved under one regime to be approved under the Australian regime without going through all the processes that a new organisation requires. I further understand that that process is well in advance. I cannot give you information about exactly where each branch of that is up to. I can say that no contract can be concluded with this organisation, and certainly no commercial activity can begin, until these things are settled.

Senator MURRAY—Next week APRA and ASIC will appear before our estimates hearings, and we will ask them whether they gave assurances that it was pending. We will also ask them whether they knew about the issues raised by Senator Sherry. It is very important that this committee understands why you would be assured that they are likely to get a licence if that assurance did not come from the licence provider.

Mr Costello—Can I confirm for the record that the updates have not been provided directly from the regulator? Northern Trust is telling how their discussions with the regulators are going and that is the progress we are following. Prior to your next hearings, I would be happy to give you a clear statement about where things are at at the moment.

CHAIR—Just to clarify, it is Northern Trust's duty to get regulatory approvals and to present them to you once they have those.

Mr Costello—Correct.

CHAIR—You do not liaise directly with any of the regulators?

Mr Costello—No, we do not.

Senator SHERRY—So at this point in time your communications have been with Northern Trust; there has been no communication with APRA or ASIC—is that correct?

Mr Costello—Correct.

Senator SHERRY—You have had no communication with APRA or ASIC but will you be providing them with the consultant's investigation such as that occurred, if they request that?

Mr Costello—APRA or ASIC?

Senator SHERRY—Yes.

Mr Costello—We would not normally provide that. That was an internal document. We would obviously meet any requirements of a government regulator if that was required of us. But it is fair to say that we would not expect that they would ask for a copy of the internal work that we did as we reviewed obviously some very sensitive information within the market about what different providers offered and at what price they were offered. I would not have expected that that was something that either APRA or ASIC would require of any organisation in the Australia market.

CHAIR—It is not your organisation that is seeking the approvals, so we would not expect that those agencies would contact you for that sort of information.

Senator SHERRY—Are you aware whether Northern Trust is a member of the Australian Custodial Services Association?

Mr Costello—I am aware of the organisation. My sense is that they would very much like to become a member but I do not believe that they would be a member at the moment.

Senator SHERRY—You say your sense is that they would like to become a member—and I will shortly go to the reasons as to why they should be a member. What do you base that sense on?

Mr Costello—Because they seek to be a provider of services in this market and they will be providing services to us. They provide services presently to the superannuation funds of some large global companies that have activities in Australia. As an organisation that is setting up business, building its operation and employing staff in Australia, I would not have thought that it was in any way surprising that they would seek to become a participant in the industry group for this.

Senator SHERRY—Is that based on any direct conversations you have had with them?

Mr Costello—No.

Senator SHERRY—What about with your officers?

Mr Costello—I cannot speak for all the conversations they have had. I certainly know that Northern Trust is looking forward to establishing its operations in Australia and having people working here. I cannot comment directly on this issue. As I say, it is my sense based on my recall of some fairly general conversations.

Senator SHERRY—I raise this issue because there is a code of conduct established by the Australian Custodial Services Association to which the members, I understand, adhere—at least I can find no complaint or breach against members of the association. Do you want to see an organisation to which you have contracted service provision to be covered by a code of conduct?

Mr Costello—We obviously have commercial obligations with this organisation anyway. Our contractual agreement very specifically sets out the kind of conduct that we expect from

them and what their obligations are to us. So we feel that our interests are covered by our commercial contract with them. To the extent that that is reinforced by industry associations then that would be a positive, but we do not see that it is up to the industry association to regulate the behaviour of an organisation that we are contracted with.

Senator SHERRY—No, I am not suggesting that, but there is a code of conduct that is common amongst industry associations which to varying degrees ensures the level of practice that I would have thought would be desirable.

Mr Costello—I would agree that it is desirable.

Senator SHERRY—Just going back a step to the specialist consultant, did the specialist consultant, in evaluating, provide you with a short list of possible custodians?

Mr Costello—‘Short list’ has a particular meaning for us. They provided us with a list of the custodians that operate globally and that are able to service institutions in Australia. The total group of global custodians is relatively small.

Senator SHERRY—They are based in Australia? They are either Australian or international firms in Australia?

Mr Costello—Perhaps I can clarify: there is a relatively small number—certainly fewer than 15, in our view—of global custody firms worldwide. Each of those firms would arrange for settlement of Australian securities in Australia, but a relatively smaller number—only five, in our view, based on the advice of our consultant—are prepared to particularly service the needs of an Australian client. As a result of that process, we identified this group of five and it was those five banks that we took through this process of trying to evaluate the best provider.

Senator SHERRY—So there were five that you evaluated. I am not going to go to the individuals. I do not want the names of them. But there were five that you evaluated. What did that involve—meeting with each of them?

Mr Costello—It involved at the beginning the sending to them of a tender document that had many hundreds of questions—my recall is that there were more than 300 or around 300 questions—which each of the providers was required to answer. We allowed about a month for that process over the December-January period. When they were received, our consultant spent another month or so compiling all of those responses and comparing them in a matrix formula. We recognised that this was a highly specific task and it required certain programs and software to deal with the complexity and breadth of that sort of information.

About a month after those were received—we were now in early to mid-February—we met with the consultant and spent some time with him looking at what we found out as a result of that process, where we had enough information and where there were gaps in some of the written responses. That allowed us to follow through with some further questions from each of those. That ultimately led to a face-to-face meeting a few weeks after that. We spent time with each of the five organisations discussing with them their written responses and just asking them other questions that either arose during interview or we wished to deal with in that format. At the end of that process, we then worked with the consultant to identify two organisations that we decided we wished to take through to more detailed discussions and review, including on-site meetings.

Senator SHERRY—Were the four other than Northern Trust either Australian based institutions or international institutions with already existing base operations in Australia?

Mr Costello—They were.

Senator SHERRY—Therefore, those four would have been licensed?

Mr Costello—That is correct.

Senator SHERRY—Because they are operating currently?

Mr Costello—That is correct.

Senator SHERRY—I assume this is the same consultant—Thomas Murray?

Mr Costello—Yes.

Senator SHERRY—Did the consultant make a formal recommendation? How did the five get down to two?

Mr Costello—It was never the brief of the consultant to make a recommendation on the provider. The brief was, as I explained, to manage this fairly complex and quite cumbersome process of sifting through all of the responses, assist us in probing the custodians based on their written responses and other information that they had available to us—because, of course, they deal with these custodians for a number of clients all around the world—and, ultimately, assist us in developing a short list. Their brief finished with us bringing the list of five down to two.

Senator SHERRY—You say bringing the list of five down to two. The consultant did not make a formal recommendation to you and your officers?

Mr Costello—That is correct.

Senator SHERRY—You have said that they prepared a very complex matrix. That must have given to you at least some sense of which one or two, as it turned out, should be selected.

Mr Costello—They certainly prepared a matrix which rated their responses to each of the questions. To that we needed to add a number of other criteria which were important. We needed to explore fees more closely with the organisations. We needed to explore the business priorities of the organisation, and that really came through discussion. It is certainly true that the information gathered as part of the tender process was the bulk of our evaluation but we needed to overlay that with other things that we found out during discussion. Our ultimate appointment and the short list was entirely consistent with the information that was gleaned and prepared for us by a consultant during that process.

Senator SHERRY—Just on the issue of fees, the report in the media was, I think, a figure of \$30 million approximately. What is the precise figure, over what contracted period?

Mr Costello—The \$30 million was not sourced from us. It was, I understand, based on another journalist's comment, a suggestion that organisations pay somewhere between six and nine basis points in custody of fees to an organisation. So that is where the \$30 million in relation to the \$50-odd billion came from. The question again was: what is the fee?

Senator SHERRY—Yes. It was reported that it was \$30 million. I want to know whether that is accurate or not.

Mr Costello—We think that the fees that we have agreed with any provider are generally fairly, certainly commercially, sensitive to them and to us. The comment that we have made is that the six to nine basis points, which was used for the purposes of this discussion, is rather more than a large organisation like us would say. When questioned on this on the ABC, I indicated that a fee of around half that level was a far more likely figure for a fund of this size.

Senator SHERRY—So a fee of around half that level, you are putting in the ballpark at \$15 million rather than \$30 million?

Senator Minchin—I want to clarify: do you mean the basis point number or the dollar number?

Mr Costello—It is essentially a broad basis point number. The dollars will depend on the size of the assets. It is important to clarify that the fee that any client agrees with the custodian is a combination of some fixed fee, which is a proportion of the assets, but most of the fee comes from the cost of settling transactions. So the fee ultimately is a product of activity. It is not a flat fee that one would agree in advance. It is a case of some fixed fee for safekeeping and some transaction fee, which is a product of the activity.

Senator SHERRY—On the fee issue, is that an annual fee? Is it five years or three years?

Mr Costello—The agreement?

Senator SHERRY—Yes.

Mr Costello—The agreement is open-ended and it can be severed by us at very short notice and by the custodian at considerably longer notice, but there is no fixed period of this arrangement.

Senator SHERRY—So it is not a fixed period contract and it is a percentage of funds under management. Is that the basis of the fee?

Mr Costello—No. Part of the fee is based on the funds under management, which is the fees that custodians charge for safekeeping of assets. Most of the fee is related to the transactions that the custodian undertakes, the settlement of shares in markets around the world. The reason that one cannot be definitive about what those will be is that it really depends upon the activity that arises. I think to tie this back with the fee, on balance, on average, most of those fees tend to come in for relatively large organisations at around half the estimates that have been mentioned in the media.

Senator SHERRY—Okay. Just to conclude on the issue of the fee, were they in fact the lowest bidder?

Mr Costello—They provided a very competitive price.

Senator SHERRY—Were they the lowest of the five or the two?

Mr Costello—I do not think that is—

Senator SHERRY—I am just posing you a question. There are other criteria—I accept that—but were they the lowest?

Senator Minchin—Mr Chairman, I do not think that is appropriate to pursue. Mr Murray has said on the record that the fund is required to ensure value for money and that this successful tenderer represents the best value for money. I do not think it is appropriate for Mr Costello to go into the details of which tenderers were where on which criteria.

CHAIR—It goes to commercial-in-confidence.

Senator SHERRY—I am not asking for the specific fee, Chair; I am asking: were they the lowest?

Senator Minchin—I think it is not appropriate for Mr Costello to respond to that, except that he is at liberty of course to comment upon Mr Murray's statement that they represented the best value for money.

CHAIR—I imagine the Future Fund might not want to go into great detail about their criteria lest it, for future tenders, give information away.

Senator Minchin—They can describe the criteria, but I do not think they should be saying where particular tenderers came out on which criteria. They have to make a decision based on all the criteria and take a holistic approach.

CHAIR—I think that is a fair point, Senator Minchin.

Senator SHERRY—I do not understand why we cannot be told—Mr Murray is not here; Mr Costello is and he obviously has the knowledge—whether they were the lowest tenderer on fee. I accept there are other criteria to take into consideration but, on that specific area, were they the lowest tenderer?

Mr Costello—Again, I think I need to repeat the response: they provided a very competitive fee, and that was one of our selection criteria.

Senator WONG—I want to go back to one issue that you raised earlier—this is in relation to your comments regarding the Department of Labor claims against Northern Trust amongst others. I want to clarify what your position actually was, Mr Costello: as I understand it, you indicated that you drew some, I suppose, security from the fact that, you say, the Department of Labor claim against Northern Trust did not proceed; is that accurate?

Mr Costello—No. The Department of Labor, which regulates the interests of employees in pension plans and employee share ownership plans, investigated this issue and decided that there was no action that it should take in its regulatory role in this case against Northern Trust, and that gave us some satisfaction.

Senator WONG—What investigations did you undertake to come to that view?

Mr Costello—What investigation they undertook?

Senator WONG—No; what investigations did you undertake to come to the view that what you have just outlined was in fact what had occurred?

Mr Costello—We relied on the information provided to us.

Senator WONG—From whom?

Mr Costello—From Northern Trust.

Senator WONG—Did you test that at all?

Mr Costello—No.

Senator WONG—Did you have any discussions with the Department of Labor?

Mr Costello—No.

Senator WONG—Did you have any discussions with any of the plaintiffs or their representatives in that case?

Mr Costello—No.

Senator WONG—Did you look at any of the legal documents associated with this claim?

Mr Costello—As part of that process, some documents were reviewed. I did not look at them, so in trying to understand this issue there was investigation of those.

Senator WONG—One of the various cases—this is available publicly—involved in the Enron litigations was a case brought by Pamela Tittle and others against Enron Corporation and others, and the others included Northern Trust; are you familiar with that?

Mr Costello—No.

Senator WONG—This was a case in the southern district of Texas and the Department of Labor issued what is called an amicus curiae brief, so a friend of the court brief, essentially supporting the plaintiffs—well, I should say it this way: arguing against the defendants' motions to strike out the claims. In other words—it is quite a lengthy brief that is available publicly—they said there is 'plenty sufficient' evidence about misconduct here to enable this claim to proceed, and I think it is about a 92-page amicus curiae brief. That clearly indicates the Department of Labor took an active interest in this case. There may have been—and we are only speculating here—reasons why they chose not to take litigation themselves. But, in light of that, how can you draw any satisfaction or security from the fact that you say no litigation was commenced against Northern Trust by the Department of Labor?

Mr Costello—We think there is a difference between the perspective that a regulator would bring in reviewing an issue and the perspective that a plaintiff would bring. So the Department of Labor was clearly responsible for the conduct of organisations in this area and its investigation did not lead to it forming a view that there was a basis for further action. We think that—

Senator WONG—Mr Costello, I do not understand how you can assert that. There may be a number of reasons why the Department of Labor chose not to initiate its own proceedings, including the fact that there was litigation afoot already. They provided an extensive amicus curiae brief to the court.

Mr Costello—So the question I am responding to is: why do—

Senator WONG—I am putting it to you that it is wrong of you to draw any security from the fact that the Department of Labor did not initiate litigation against Northern Trust, given that there was litigation by a range of other people against Northern Trust and others, and

given that the Department of Labor actually intervened in that case to support the plaintiffs' claim.

Mr Costello—The Department of Labor nevertheless had a regulatory rule, so the perspective that they as regulator would bring—as we would look to the perspective of any regulator in any market—is relevant for us, we think.

Senator WONG—I suppose my concern is this: you are making a range of assumptions about what you can conclude as a result of the Department of Labor's actions, but you have made those assumptions without any discussion with anyone from the Department of Labor or anyone involved in that litigation other than the party that was the defendant, which is Northern Trust.

Mr Costello—That is correct.

Senator WONG—Do you think that is an appropriate way to make a determination on that issue?

Mr Costello—You have raised a number of issues here, and there is a lot of detail there. As I said before to Senator Sherry, we will, in conjunction with Northern Trust, look at all of these issues, and I think probably it is appropriate for Northern Trust's own perspective on this to be introduced. So we will certainly be approaching them and saying that a number of comments were made here about them which no doubt will be promulgated further, and I am sure they will be very interested in stepping in to provide their perspective on these issues as well.

Senator SHERRY—But the material from the Department of Labor that you have relied on was supplied by Northern Trust itself, wasn't it?

Mr Costello—That is correct. It was part of our discussions with them about any outstanding litigation that was in place against them around the world.

Senator SHERRY—I still express my surprise that you did not attempt to at least go behind the document, to some extent, provided by Northern Trust. Did Northern Trust provide you with the approved settlement by US District Court Judge Melinda Harmon, when they agreed to the compensation arrangement to the trustees?

Mr Costello—No, Senator.

Senator SHERRY—They didn't provide that?

Mr Costello—We did not ask them for it and they did not provide it to us.

Senator SHERRY—Okay. Don't you think that the final, signed-off approved document, where Northern Trust agreed to pay compensation of \$37.5 million, would bear examination?

Mr Costello—Again, we formed a view that the issue was not directly relevant to the role that we were seeking Northern Trust to provide to us. We were satisfied that it was a very particular circumstance, being caught up in the very public collapse of a very large company, and there were lots of issues at stake there, around Enron. We were satisfied that, in their role of providing these custodial and fiduciary obligations, they had met those obligations and that the issue had been settled—and that was a commercial decision—and their insurer had stepped in to do that. We were satisfied that that was really, for us, the end of the issue.

Senator SHERRY—Let us hope APRA and ASIC make a more thorough investigation of the various documents during the licensing process.

Senator WONG—Just one thing about the tender process, and Senator Sherry might have covered this while I was distracted: did you cover whether or not Northern Trust put in a tender in the original round, when expressions of interest were first called for?

Mr Costello—Expressions of interest were called for, and ANZ, who is their local partner, responded to that because the expressions were issued on a Commonwealth government website. So ANZ responded to those. When I took up the role, I expressed the very strong view that I thought this was a much more significant project and it was materially more complex to review all the information than could be handled by the organisation as part of a standard tender arrangement. So we engaged a consultant, which we have already talked about, and we went back to the parties involved in that. We were satisfied that the relationship between ANZ and Northern Trust was consistent with that—and they were of course one of the organisations able to provide services in the country. So it was the ANZ relationship with Northern Trust that I think was the continuity between the original expressions of interest and the more formal approach we ran. We were very keen to ensure that we absolutely canvassed the market, based on using the appropriate skill and appropriate resources to try to understand everything here. I felt that the original expressions of interest project did not do that.

Senator WONG—So somebody contacted Northern Trust to seek that they put in an expression of interest. Is that how it worked?

Mr Costello—I understand that in the relationship with ANZ it was agreed between them that that is how that would be handled.

Senator WONG—But who told ANZ that that should happen?

Mr Costello—We provided feedback to ANZ saying that this was the next step, that there was an expression of interest called some months before—I understand it was in August. This conversation took place in late November, and ANZ and Northern Trust, between them—and I am not entirely sure of the detail here—agreed that they would participate in the next round. The tender document would be published and they could respond to it if they wished.

Senator SHERRY—We touched in passing on the staffing issue, and I want to go to that. Do you agree that it is important the custodian has both the level of staffing and the degree of expertise to handle the role of custodian?

Mr Costello—Absolutely.

Senator SHERRY—How many staff does Northern Trust have in Australia at the present time?

Mr Costello—I understand two.

Senator SHERRY—What is your understanding of the total number of staff that they would require in Australia to handle the contract?

Mr Costello—I understand that they are proposing to set up an office here, at this stage with around 10 people. The role of that organisation will be essentially relationship management. It will be the management of the relationship with us and also with the

regulator, so there is a compliance function there. There is a support function in terms of local financial and other reporting. But primarily this is a relationship management centre that will be set up here in the short term. I know that Northern Trust hope that this business will grow for them. As that business grows, I am sure their commitment to resourcing in Australia will grow.

Senator SHERRY—Given staffing is a key component of the activity of a custodian—required level and skilled staff—how did you evaluate their ability to deliver in that regard when they now have two staff and presumably had fewer at some period in the past?

Mr Costello—I think it is a case of what the staff do and where they need to be to do it. The point has been made in our communication that the role of a master or global custodian is to coordinate activities all around the world. In each country where investment is being undertaken, transactions are settled by a subcustodian bank in that country. ANZ is the Australian subcustodian of Northern Trust. So all settlement of our investments in this market will be undertaken by the custody department of ANZ. That resource exists and we are absolutely confident that our arrangements will be well catered for through their partnership with ANZ.

Coordination of these roles exists in various places around the world. One of the things that attracted us to Northern Trust was that they ran a single global platform. We liked that. We noted that many other organisations, of course, because of the very specific requirements of Australian tax on superannuation funds, have had to set up fairly substantial units here to deal with and to manage that complexity. We are not in that position so we liked the fact that there was a single platform that we could use, that that one platform was being continually refreshed and that resources were continually being applied to it. We also liked the fact that at the highest level of the organisation there was a commitment to the quality of that platform.

For us, the issue was less about where people were; it was about the quality of those people and the way that they could respond to our needs and process our transactions. The fact that Northern Trust would not be processing a lot of our transactions in Australia, recognising that ANZ would be doing that on their behalf, was not something that we thought was particularly important in our decision.

Senator SHERRY—The image you have given begs the question why they need ANZ at all.

Mr Costello—All transactions must be held by a bank domiciled in the country that the security is held, and that bank must be regulated in that country. ANZ provides that service for Northern Trust historically and will continue to do so.

Senator SHERRY—So Northern Trust are not seeking a banking licence in Australia?

Mr Costello—I do not believe so.

Senator SHERRY—What is your understanding—and, again, two to 10 staff seems to be accurate, given the media reports I have seen—of the other staffing involved in the custodial service? How many other staff will there be and where will they be located?

Mr Costello—There are staff all around the world. The head office of Northern Trust is in Chicago. That is clearly a very large organisation. I think that if you are interested I would

need to come back on this. Perhaps the number of staff in each area is publicly available. There is a large centre in London. Singapore provides a lot of the accounting and other services for this region.

Over the last couple of years, as has been reported, a processing centre with somewhere between 100 and 200 people has been established, I understand, in India. The role there is for the Asia-Pacific region to reroute transactions to the subcustody banks in the different markets. Settlement work that the ANZ will be doing in Australia for our account and others will have come through an Asia-Pacific rerouting centre, if you like, based in Bangalore. That has been reported. The accounting and other work will be done out of Singapore and the relationship management and local servicing will be done out of Melbourne.

Senator SHERRY—As to the estimated number of staff that was reported in the media in those two overseas centres, what do you understand it to be?

Mr Costello—I understand there to be fewer than 100 in Singapore, between 100 and 200 in India and much larger operations in both London and Chicago.

Senator SHERRY—I am specifically referring to their activities when involved as the custodian of the Future Fund, not their other activities.

Mr Costello—Sorry, now I am confused.

Senator Minchin—What you just gave, I think, Mr Costello, was the total staffing of Northern Trust in those centres.

Mr Costello—Right.

Senator Minchin—The question I think goes to how many staff are likely to be actively involved or primarily involved in servicing the Future Fund as the client.

Mr Costello—I think that is a very hard question to answer because, of course, there are parts of staff all around the world at any one time acting on our business. One of the features of the global custody market is that economies of scale are very large and technology is very important. The main role that people play is checking when things do not work and when automated systems do not work. If that information is important I think I would need to take that on notice. I could not give an accurate answer.

Senator SHERRY—It is just that there were reported staff figures in Singapore and—was it Bangalore?

Mr Costello—Indeed.

Senator SHERRY—in the media. I just wanted to know what the accurate figures would be for staff engaged in Australian Future Fund work in each of those centres.

Mr Costello—I have said that they process transactions for all Northern Trust clients all around the world.

Senator Minchin—I think the point is that it is impossible to disaggregate it sensibly.

Senator SHERRY—The individual personnel who will be employed by Northern Trust presumably will be checked by APRA and/or ASIC?

Mr Costello—That would depend on the licensing and approval regime. I do not understand that APRA itself is involved—

Senator SHERRY—ASIC may be?

Mr Costello—in the approval of all staff of all financial organisations. I understand that the approval process is more at the organisational level.

Senator SHERRY—What is your understanding of what the role of the 10 staff approximately—I use those words because the number might vary—will be in Melbourne?

Mr Costello—Primarily our interest in those staff is that we have a dedicated relationship manager. The job of that person is to manage our queries if we have issues that we need help with at a higher level. Much of that is automated and much of it is instructions that we will issue for various settlements and transactions to happen. So really the role of the relationship manager is if there are issues that happen with that or to help us to resolve problems if there are any to ensure that our interests are well represented, our needs are well represented globally and, where attention is required to assist us with a particular issue, our voice is heard. That is primarily the role of the relationship manager. There are compliance people who, of course, will be dealing with the relevant Australian regulators and ensuring that all documentation and processes are met there. There are other service requirements. But primarily our interest is in the person to manage our relationship.

Senator SHERRY—If in fact they do seek and are required to seek an AFS licence, there are various people proofs that would be part of that licensing application. Is that your understanding?

Mr Costello—It is some time since I have looked at this issue. I would need to understand again exactly what all of the steps are in the approval process.

Senator SHERRY—For example, a statement of personal information including certified copies of qualification certificates, a certified copy of a bankruptcy check, a certified copy of a criminal history check and a certified copy of business references are typical of the checks carried out on senior personnel in the financial services sector.

Mr Costello—By APRA or ASIC?

Senator SHERRY—By ASIC in the case of an AFS licence.

Mr Costello—All those regulatory hurdles will be met.

Senator Minchin—It is a matter for Northern Trust, surely, not for the Future Fund itself.

Senator SHERRY—I would hope that the Future Fund ensure that—the contract has been awarded subject to the licence—

Senator Minchin—Exactly; subject to.

Senator SHERRY—and further clarification that Mr Costello is now going to seek following our earlier question.

Mr Costello—It is a job for the regulators too.

Senator Minchin—In order to enable the contract to come into effect, they have to meet all the regulatory requirements of this country. That is a matter for Northern Trust as their part of the contract.

Senator SHERRY—The point I am getting to is: how confident are you that they can meet the licensing personnel checks when they only have two personnel here at this point in time?

Mr Costello—We very confident of the quality of the organisation and the quality of the people who work for that organisation. There is nothing to suggest that the people that they would put to work in Australia on Australian business would in any way be of a lower quality than their people generally. We do not anticipate that there would be any issue at all along the lines that you raise.

Senator SHERRY—In your position in New Zealand with the New Zealand future fund, were Northern Trust the custodians of that fund?

Mr Costello—No. Although after I left, a review was done of the custody market and the result of that process was that the board appointed Northern Trust, its mandate to take effect from 1 July.

Senator SHERRY—Was that process begun prior to you leaving the position in New Zealand?

Mr Costello—The process of the review being called for and getting underway was done, but I had left the organisation before a decision was taken.

Senator SHERRY—Presumably, the domestically based custodian market is pretty small in New Zealand.

Mr Costello—That is right. Although, again, it makes the point that all a master custodian needs is settlement facilities in each country. Every country in the world is covered in this respect, so this is less about ensuring that there is a large operation in your country; it is more about the quality of operations all around the world.

Senator SHERRY—Australia has by volume the fourth largest funds management industry in the world—not per capita; by total volume. It is a pretty impressive achievement for a whole lot of reasons. Do you think it appropriate that we should as much as possible be awarding this type of work to an Australian based institution, given the size of our funds management industry?

Mr Costello—This is the question that has been asked over the last couple of days, and we can only reiterate the requirement on us. The requirement on us is to build a best practice institutional investment business and ensure that the partners that we seek represent value for money. We are absolutely satisfied that, based on those criteria, this was the right decision for us.

Senator SHERRY—Given we have got the fourth largest funds management industry in the world, we do not appear to have a custodian service based here that would satisfy our own Future Fund's requirements.

Mr Costello—The conclusion was that we felt Northern Trust best satisfied our requirements. It takes nothing away from the strength of the offers of the other providers. We

have also been absolutely clear that each of the other providers would have been capable of meeting our business but, in terms of meeting the expectation that we would operate at best practice level, we came to the view that Northern Trust was the best organisation to work with.

Senator SHERRY—Could you provide us with an update of the specialist staff that have been employed to date?

Senator Minchin—Before we leave this custodian issue, there has been a lot of discussion about Northern Trust, and that has interested me, too. I draw to the committee's attention—and for the information of people following this discussion—to a number of things about Northern Trust. There was a story on *Lateline* last night which some of you may have seen, in which the reporter said:

The partner in charge of banking consulting group, KPMG, says there are only about half a dozen companies in the world which can handle such work.

Mr Andrew Dickinson, the KPMG partner said:

I was certainly surprised it was an issue. I wouldn't have thought that there was a lot of controversy associated with an appointment of this sort. As I say, Northern Trust is a very well-known and highly respected global custodian.

I also draw the committee's attention to a statement of Wednesday, 7 March 2007:

Northern Trust has been named the European Pension Fund Custodian of the Year for the fourth consecutive year at the recent International Custody and Fund Administration ("ICFA") European Custody and Fund Administration Awards ...

That statement also notes:

As of December 31, 2006, Northern Trust, had assets under custody of US\$3.5 trillion, and assets under investment management of US\$697 billion.

I also draw the committee's attention to a statement of 8 June 2006 which reports that Northern Trust recently announced it had been selected by the Delaware Public Employees' Retirement System as its custodian, looking after the 60,000 retirees and active members of those pension funds; and a statement of 22 February 2007 reporting that Northern Trust has been awarded the Euro €2.3 billion custody mandate for the pension fund for health insurances of Holland. Those are relevant facts with respect to the interesting discussion we have had today about Northern Trust.

CHAIR—Thank you for providing that context and background, Senator Minchin.

Senator MURRAY—Without making any inferences as to Northern Trust's abilities or good offices, I am sure the minister is not guaranteeing that in all cases this organisation would be automatically outstanding. You are merely drawing attention to its size and reputation. But, Arthur Anderson, for instance, had a huge size and reputation, and Enron had a huge size and reputation. I am not implying that Northern Trust might not be a very good organisation, but you are not saying that in all circumstances they would be automatically beyond questioning, are you?

Senator Minchin—The position is that the Future Fund is independent and has made this appointment independently, but this afternoon we have listened to a lot of interesting evidence

with respect to Northern Trust and Enron, which happened, I think, some five or so years ago. All I sought to do in the absence of other senators so doing, and as the interested minister, was draw to the attention of the committee certain facts with respect to Northern Trust that have occurred since Enron.

Senator MURRAY—I think that is the proper thing to do. It is very helpful. I did not have that information to hand.

Senator Minchin—I make no more statement than that.

Senator MURRAY—I am just checking that you are not giving a warranty.

Senator Minchin—I am doing nothing other than, for the sake of the committee's information base, drawing those facts to its attention.

CHAIR—Mr Costello, there has obviously been quite a bit of commentary today about the Future Fund decision to appoint Northern Trust as the global custodian. I know the independence of the Future Fund is something that you and Mr Murray say is critical to the effective function of the Future Fund. Do you think that it would have been appropriate for government to take the decision as to whom should be appointed as the global custodian?

Mr Costello—I think that would have been inconsistent with the Future Fund Act, which goes at length to describe the fact that the board is an independent body and is charged with the responsibility for managing the fund and appointing investment managers; custodians are included in the description. So it never, for a moment, occurred to us that the organisation would not be free to make the decision that it thought was best to meet the requirements that it has on it, to deal with a best practice organisation, and to secure partners to ensure that value for money is achieved. So I think the short answer to your question is no.

CHAIR—It would be entirely inappropriate for government to take that decision.

Senator Minchin—Yes.

CHAIR—Would it therefore follow that political pressure, that may be brought to bear on the Future Fund in relation to that decision, could also be seen as an attempt to impinge on the independence of the Future Fund?

Mr Costello—I think the independence of the Future Fund is something that everybody who works for the organisation holds very dear. We absolutely understand that when you manage public money comment will be made about your activities. We accept that some comment is very well informed and other comment is less so. But at no stage do we question our own commitment to that independence and we would see ourselves remaining independent through this sort of process. We really do not feel that there is political pressure here. We understand that there is comment and all sorts of things, but we do not believe that anybody is suggesting that the board should not be and should not remain independent in the role that it has.

CHAIR—So you would not be swayed by any public commentary or political pressure from any source in relation to your decision or in relation to reviewing your decision?

Mr Costello—All of our decisions are reviewable internally, of course. Part of your obligation in running a best practice organisation is that you constantly benchmark your

decision. We remain focused. This was a very exhaustive process. We covered a huge number of issues which, of course, have not been discussed today—only one has—across a wide variety of areas which are very much part of the day-to-day life of the fund. We are satisfied with that decision. We believe we have chosen a very high-quality provider, we believe they will service our needs very well and we remain committed to that decision.

Senator MURRAY—Mr Costello, I agree with and support the absolute independence of the Future Fund, subject to the right of the government to give directions as laid down in the legislation. I also believe that the members of the board and management are people of skill, experience and ability appropriate to that task. But you would accept, wouldn't you, that with that independence and responsibility also comes liability—namely, you are liable as a group, management and the board for carrying out due diligence and assessment to the fullest extent required in these matters?

Mr Costello—Yes, I would accept that.

Senator BOB BROWN—I intend to take up this question more fully with ARIA later on, but I was wondering about the government's policy of indemnifying trustees and other officers. Are the directors of the Future Fund covered by any such indemnity?

Senator Minchin—Dr Watt may wish to comment further on the general policy with respect to indemnities, but we are in the final stages of negotiating the exact terms of the indemnity that will be provided to the Future Fund board. It is always the case in relation to Commonwealth bodies of this kind that operate in the marketplace that, consistent with good practice in the corporate world, there is some form of indemnity negotiated and provided for. We are yet to finally settle that with the Future Fund board, but we are close to so doing.

Senator BOB BROWN—What other government bodies have indemnity for their boards?

Ms Campbell—Senator Brown, you mentioned ARIA, who have had an indemnity in their legislation for some time. There are a number of other indemnities throughout the Commonwealth and a number of them have been there for some time.

Senator BOB BROWN—What are they?

Ms Campbell—I do not have a list. Each agency is generally responsible for the indemnity. We do not have a consolidated list of those with us here today. Often the agency will list those indemnities in their statement of risks and liabilities as part of their budget documentation.

Senator BOB BROWN—I would appreciate it if you could supply me, if there is a list, with the other agencies or instrumentalities that have indemnities for board members. The minister might help you in getting that list together.

Dr Watt—We will see what we can do, Senator.

Senator BOB BROWN—Thank you. The directors of the Future Fund have been making some very important decisions for which the government does not take responsibility. We have heard about that in the last hour or so. Is there any prospect that the Future Fund directors will be indemnified for those decisions which are not an outcome of government policy but for which the directors make their own decision?

Senator Minchin—It is a little tricky answering this before we finalise the indemnity with them. I will take on notice the issue of making public the nature of the indemnity, which is really what you would be seeking us to do. Let me take that on board. Prime facie I am not sure whether there is any difficulty in doing that but I do not want to definitively promise to you that it can be done. At the moment, I do not see why not, but I would like to consider that. Generally speaking, when boards act in accordance with the law and in accordance with their roles and responsibilities in respect of that body, act in good faith and are not ultimately found to have committed either a civil or a criminal offence, then they are indemnified. That is typical in the corporate world and that is typical in the world of public service as well. As I say, we have to negotiate that finally.

Senator BOB BROWN—Is it not the case with ARIA, for example, which is the one case that I know about, that any matter or thing done or committed to be done in good faith by the trustee or commissioner is indemnified?

Ms Campbell—That is correct.

Senator BOB BROWN—That is a bit wider than what the minister is talking about, isn't it?

Senator Minchin—I did say that 'in good faith' is the critical criterion that there has been no actual breach of criminal or other law—

Senator BOB BROWN—Yes, but what about a bad decision made in good faith?

Senator Minchin—It goes to the personal liability. When people offer to serve on government boards and things and get some remuneration, they will not do so unless they know there is some indemnity. This is whether it is the board of a small public company, us, BHP or Telstra. You do your due diligence on the extent to which you will be personally liable for things where you have acted in good faith but, ultimately, the company or you as a director might be sued. Obviously, as I mentioned before, we live in a much more litigious world. One of the issues that we have as a society with the willingness of good men and women to serve on companies and boards is their public exposure to suits. So the companies and institutions have to wrestle with the extent to which indemnities are provided, given the much greater litigation that goes on now.

We have to find the balance—that is right. We do not want to provide blank cheques. That would be a moral hazard. At the same time, we want to ensure that we are in step with what is going on in the commercial world. We want provide an appropriate level of indemnity that ensures that we can continue to attract high-quality men and women to these roles but at the same time not allow what I have just described as the moral hazard of them thinking they have a blank cheque. That will vary from body to body, whether it is what we call a CAC Act body or an FMA Act body—whatever the particular circumstances of those bodies are. In this case, of course, it is a board with significant responsibilities but, as a result, significant potential exposure as well.

Senator BOB BROWN—When was the board appointed?

Senator Minchin—Late last year.

Ms Campbell—It was last year.

Senator Minchin—At this stage we are at the end point of negotiating the actual terms of the indemnity and there has been some toing and froing on this.

Senator BOB BROWN—But when was the board appointed?

Ms Campbell—We can get that information for you.

Senator BOB BROWN—It was last year, wasn't it?

Senator Minchin—I think it was late last year, but there have not been particular investments—as no doubt will come out in further questions and as has been publicly reported. They had to get the custodian settled and get the indemnity staff et cetera to be in a position to formally invest the money. What they have at the moment are the Telstra shares that have been transferred to them and moneys that are still on deposit at the Reserve Bank.

Senator BOB BROWN—What you are telling me is that you have a board but you do not have an indemnity.

Senator Minchin—I did say to you that we have not finalised the terms of the indemnity; that is right.

Senator BOB BROWN—If the indemnity is so important, how could you have established the board without the indemnity being in place and is it going to be retrospective when it comes into place?

Senator Minchin—I am not sure.

Dr Watt—The indemnity is important primarily in relation to the investment decisions that the board will be making.

Senator BOB BROWN—Primarily, sir, but it is much broader ranging than that.

Senator Minchin—The directors were willing to accept appointment on the understanding that, once the board had been appointed, we would negotiate and settle the terms of the indemnities that would apply. Obviously it is theoretically open to any member of the board to decide that the indemnity is not sufficient for them and, thanks very much, they will say goodbye. Obviously at any time, either in a future fund or in any company, I presume that does occur, that directors of companies decide not to stay with the company if they do not believe they are sufficiently protected. But the board members, who are part of a high-quality board, have all accepted appointment on the understanding that, once they have a board in place, we will negotiate an indemnity, which we are at the end point of doing.

Senator BOB BROWN—So the board is not in place?

Senator Minchin—The board is in place and operating as a board and they have all been properly appointed—

Senator BOB BROWN—But they do not have an indemnity.

Senator Minchin—and they all happy with that situation. They have all accepted the appointment on that basis, knowing that we would negotiate the indemnity, and we are close to finalising that indemnity to the board's satisfaction.

Senator BOB BROWN—Was that a written understanding with the board members?

Senator Minchin—Probably not.

Senator BOB BROWN—It wasn't?

Senator Minchin—No, but they were all—

Senator BOB BROWN—That is extraordinary.

Senator Minchin—They all knowingly accepted appointment on that basis; I can assure you of that.

Senator BOB BROWN—Yes, but they are working without an indemnity, which you say is essential.

Senator Minchin—But they are doing it knowingly and because the investment activity has not really begun yet. It is the investment activity that is—

Senator BOB BROWN—Some mightily important decisions relating to that investment activity have been made.

Senator Minchin—No; only the custodian has been appointed.

Senator BOB BROWN—Is that not an important decision relating to the future security of decisions that are to be made?

Senator Minchin—This highly skilled and experienced board was prepared to make that appointment, although I do not think they have signed a contract yet. They have not signed a contract yet, but they are prepared to announce that, subject to finalisation of the contract, Northern Trust will be the custodian. They are prepared to make that decision, make that announcement, knowing that we have not yet finalised the terms of the indemnity.

Senator BOB BROWN—Who will indemnify? Where will this indemnity, this guarantee, lie when it is finalised?

Senator Minchin—With the Commonwealth.

Senator BOB BROWN—Does that mean with the taxpayer?

Senator Minchin—With the Commonwealth, yes—as with any other indemnity we provide. We provide other indemnities.

Senator BOB BROWN—Yes, but we are talking here about a super fund which is going to have a board of directors looking after a very large amount of money. Is not that fund going to provide the indemnity? Is it going to the fund or the taxpayers who provide this indemnity?

Senator Minchin—The funds are the taxpayers' funds, the Future Fund board is charged with managing those funds and, in terms of the indemnity that is finally provided, the Commonwealth is the indemnifier.

Senator BOB BROWN—But let me put this as a statement and see whether it is wrong: it will be the taxpayers who will provide the indemnity, not the super fund, not the Future Fund.

Senator Minchin—It is the Commonwealth, but the Future Fund is the Commonwealth's.

Senator BOB BROWN—But you know the point I am getting at.

Dr Watt—Yes and no, Senator. You are asking what is the source of the indemnity, who would ultimately be liable if the indemnity were drawn on.

Senator BOB BROWN—From where would the money come is what I am asking.

Dr Watt—The answer is that it will come from the budget, which ultimately draws its funds from the taxpayer. But whether it comes from that part of the budget which is the Future Fund—because the Future Fund is in the general government sector, it is in the budget sector—or whether it comes from a separate part of the budget, it still comes from the taxpayer.

Senator BOB BROWN—Why should a separate part of the budget—funding for schools, hospitals and so on—be subject to penalty if the indemnity against some failure of the board or its members has to be paid out?

Dr Watt—First of all, you say ‘subject to penalty’. There is no sense that they will be subject to penalty. We are talking about a situation that is purely hypothetical.

Senator BOB BROWN—No, I am sorry—

Dr Watt—We are, Senator. We are talking about a hypothetical situation that may or may not ever occur. Firstly, there is no certainty—and, indeed, there is absolutely a non-certainty—that that indemnity would ever be drawn. Secondly, one way or another, it will be budget funded and that is taxpayers’ money.

Senator BOB BROWN—But I ask again: why should government services be subject to paying out the indemnity for the Future Fund board or a member of the Future Fund board if they fail in their duties?

Dr Watt—Again, there is no guarantee the indemnity will be drawn on. Secondly, if the indemnity was hypothetically drawn on against the fund and the government decided it still wished to meet its targets in relation to the fund, it would be drawing on the rest of the budget to do so. The distinction is nowhere near as hard and fast as the one you are trying to make.

Senator BOB BROWN—I disagree. To me, it means that the board will recognise that, if there is some failure by it as a board or by any member, the money may well come from somewhere else and not penalise the organisation for which they work. That is very different from what happens in the private sector, for example. They do not have some other fund to purloin in that circumstance.

Dr Watt—I am not that sure. In the private sector, the fund would come from shareholders’ funds, if there was an indemnity to be drawn on.

Senator BOB BROWN—From that company?

Dr Watt—Yes.

Senator MURRAY—Or from insurance.

Dr Watt—Or from insurance, yes.

Senator BOB BROWN—Is insurance being taken out in this situation?

Senator Minchin—The Commonwealth self-insures.

Ms Campbell—Yes, but the board has taken out insurance.

Senator BOB BROWN—To fund the indemnity?

Ms Campbell—The board has taken out insurance to cover a range of insurable activities that any board would take out; so they have taken out the extent of insurance possible.

Senator BOB BROWN—So why the indemnity?

Ms Campbell—There are some risks that are not insured. Most corporations take out insurance and then there is an indemnity as well.

Senator BOB BROWN—What are those risks?

Ms Campbell—I do not think we have that detail with us at the moment.

Senator BOB BROWN—Can you provide it to the committee?

Senator Minchin—We will take that on notice.

Ms Campbell—We can take it on notice.

Senator Minchin—The point you are putting to us is that the indemnity, once it is ultimately settled, should be against the fund itself and not against the budget. Is that what you are saying?

Senator BOB BROWN—I am querying the indemnity process itself. I am open to knowing what it is. I wonder whether, while the committee is sitting, we can be provided with the indemnity as so far worked up so that we can see what is actually being indemnified.

Senator Minchin—No, I do not want to provide the indemnity during the settlement process. I have taken on board your desire to be advised of the terms of the indemnity once settled. Without giving a formal commitment to providing that, I do not see a fundamental reason why not. I take on board that request, but I think it would be entirely unhelpful and improper to just be running some iterative process publicly on the finalisation of the terms of that indemnity.

Senator BOB BROWN—The function of this committee is to look at a process as important as this and be able to question it.

Senator Minchin—Yes, once the indemnity is there. I take on board your desire to see the terms of that indemnity. Prima facie I do not see a problem with that, but I do not want to commit here and now.

Senator BOB BROWN—Minister, it is our job to look at work in progress and, if you have work in progress, I would like the committee to see it so that we can question you about it.

Senator Minchin—No, I am not going to—

Senator BOB BROWN—You are not going to show it to the committee?

Senator Minchin—Not a draft—no.

Senator BOB BROWN—Is that where it is at—the draft stage?

Senator Minchin—As I say, we have not concluded the terms of indemnity. We are negotiating that with the board and I am not prepared to expose that process of negotiation between the government and the board to the public arena. No, I am not prepared to do that.

Senator BOB BROWN—But it is a public entity.

Senator Minchin—As I have said to you, I am open to the proposition that, once the indemnity is determined, that it will then be made available to the committee. I am not giving a formal commitment to that, but I am open to that proposition—

Senator BOB BROWN—When will that be?

Senator Minchin—But certainly not the iterative process.

Senator BOB BROWN—When will that be?

Senator Minchin—We are very close to finalising it.

Senator BOB BROWN—So will it be this month?

Senator Minchin—We are very close to finalising it.

Senator BOB BROWN—This financial year?

Senator Minchin—We are close to finalising it.

Senator BOB BROWN—How close?

Senator Minchin—Close.

Senator BOB BROWN—How close?

Senator Minchin—I am sorry, but I cannot add to the answer. I appreciate your interest, but—

Senator BOB BROWN—Was any member of the board appointed without discussing this putative indemnity?

Senator Minchin—All the board members were appointed and accepted appointment on the understanding that the details of the indemnity to be provided would need to be negotiated with the board.

Senator BOB BROWN—Who raised the issue of the indemnity first in this process; where did it come from?

Senator Minchin—The chairman, as the chairman, is the lead negotiator for the Future Fund with respect to the terms of the indemnity.

Senator BOB BROWN—The chairman being?

Senator Minchin—David Murray.

Senator BOB BROWN—So David Murray raised the issue?

Senator Minchin—It has always been the case that—

Dr Watt—The issue of indemnity has been worked backwards and forwards between officers of the Future Fund, officers of the Department of Finance and Administration, and Treasury officers for some time. It is incorrect to ask who raised the issue. The issue has always been there. We have always known that there needed to be indemnification arrangements put in place. In a sense, it existed right from the time that the Future Fund was decided upon by government. There was always going to be an indemnity.

Senator BOB BROWN—I just wanted to establish clearly that it was discussed with each board member before they were appointed.

Dr Watt—I am not sure that is what I said.

Senator BOB BROWN—No. I want to clear the air on it.

Dr Watt—We could not give that assurance.

Senator Minchin—I am confident that, with respect to each board appointment, they accepted appointment knowing that the government and the board would need to subsequently settle the terms of the indemnity.

Senator BOB BROWN—Would you check that it was discussed with each board member before they were appointed?

Senator Minchin—We will take note of your request.

Senator BOB BROWN—Take that question on notice. Thank you. We will have to wait to see what the indemnity says. It is an open-ended indemnity. It could potentially, in a disastrous situation, run to billions of dollars, couldn't it?

Senator Minchin—I do not want to comment on the consequences of an indemnity that has not been finalised yet.

Senator BOB BROWN—Is it limited?

Senator Minchin—There are indemnities. As you say, ARIA has an indemnity arrangement; the Reserve Bank board, which currently has, and traditionally has had, billions of dollars of taxpayers' money deposited with it, has indemnities; Australia Post—all these boards have indemnities of one kind or another. But I am not going to give a running commentary on the possible consequences of calling upon an indemnity which has not been determined. We are very fortunate that this government has been able to generate surpluses which are able to be put in a Future Fund, managed by some of the best people—and I am quite flattered by the quality of the people who have been prepared to accept appointment to this board. It is as high quality a board as we could possibly have got. They will do an outstanding job. They have a right to some form of proper indemnity which balances the interests of both sides.

Senator BOB BROWN—Though they do not have one at the moment.

Senator Minchin—No. They know that and we are close to finalising that. As I say, I take note of your interest in the terms of it and I will try to be as helpful as we can.

Senator MURRAY—I remember there being a publication, which I see now and again—it is from Treasury, I think—which lists all contingent liabilities and indemnities of the Commonwealth. My question is simple: will this indemnity fall into that publication as a matter of course?

Senator Minchin—Yes.

Senator MURRAY—So it will just be reported on in the usual way with all the other indemnities and contingent liabilities of the Commonwealth?

Senator Minchin—Yes, that is correct.

Dr Watt—Budget statement No. 11, I think it is.

Senator MURRAY—I do not have it with me.

Dr Watt—I think we prepare it.

Senator MURRAY—You do? I am sorry; I was giving credit to—

Dr Watt—That is all right. It is often hard to tell where Treasury stops and we start.

Senator MURRAY—Just remind me: I suspect, from that publication, if you added up all the contingent liabilities and indemnities, it does amount to billions of dollars.

Dr Watt—Yes, it does.

Senator Minchin—Theoretically, yes.

Dr Watt—Although, as the publication points out, there are some contingent liabilities that are knowable and quantifiable should an event happen—

Senator MURRAY—And others which are not.

Dr Watt—And others which are simply not quantifiable.

Ms Campbell—Including the ARIA indemnity, which is listed on page 11-14 in this document.

Dr Watt—As unquantifiable.

Ms Campbell—As unquantifiable.

Senator BOB BROWN—So this indemnity for the Future Fund will also be unquantifiable, won't it?

Senator Minchin—Again, we have not finalised the indemnity. I am not going to comment on an indemnity that has not been finalised.

Senator BOB BROWN—I will take that as: it will be unquantifiable.

Senator Minchin—You can take it any way you like, but I am not going to comment on an indemnity that has not been finalised.

Senator BOYCE—Senator Minchin, this is probably best directed to you. Given that it is reasonably normal in the corporate world for a start-up company to take six to 12 months to develop their constitution, directors' and officers' insurance indemnities and everything, can you just outline the similarities between corporate D&O and indemnity insurance? What background material have you used to look at these indemnities and the D&O insurance for the directors?

Senator Minchin—I will let the officers who have been dealing directly with the Future Fund and officials answer that.

Ms Campbell—We have taken notice of what happens in the corporate world and we have also taken notice of what happens in other entities within the government sector that have indemnities. The board did get insurance first and then talked to us about the extent of the indemnity after that. As Senator Minchin has said, we are finalising the negotiations on that indemnity now.

Senator BOYCE—This question actually goes back to the manager of the Future Fund. I notice that we have ANZ acting as a custodian in Australia for Northern Trust. Can you explain what that relationship will entail?

Mr Costello—Northern Trust is acting as what we would call a global or a master custodian. In order to keep assets safe and secure, it is required that, in each country where shares—let us talk about shares—are held, a local bank acts to settle the transactions and keep them safe. So ANZ acts as the settlor on transactions in Australia and has responsibility through its arrangements with Northern Trust for the security of those assets and the transactions. So primarily they are involved in settling Australian transactions that are done in the fund's name.

Senator BOYCE—What about the choice of banks used in other countries?

Mr Costello—That is one of the things that we spent some time looking at, but fundamentally each of the global custodians has networks in each country around the world. Unsurprisingly, many of them tend to use the same banks. There tends to be one bank within each country that is relatively strong, so it is not exclusive to each one. Probably the combination is exclusive, but it is not that it would be each bank. In each country it would be only one bank with one provider.

Senator WATSON—Just to follow up on Senator Boyce's question, you mentioned that the ANZ Bank custodians are responsible for the settling. Are they also responsible for holding?

Mr Costello—Ultimately, all assets are held for the beneficial interest of the board. So there is a series of bearer trustees and nominee companies, which is standard in the custody industry. Assets tend to be registered in the name of the bank in each country, noting that it is part of the master custody arrangement, which ultimately flows to the client.

Senator WATSON—But they are held where? Are they also held by the ANZ Bank?

Mr Costello—These days, with electronic records, 'holding' has a different meaning. Northern Trust would hold a nominee relationship. The registered owner would be a nominee company of Northern Trust for the beneficial interest of the board—in Australia.

Senator WATSON—To many Australians, the decision to appoint Northern Trust as a custodian has come somewhat as a surprise—perhaps as a disappointment. But, given the very high profile and executive positions of the Future Fund board in the financial services sector, do you think that overcoming the potential conflict of interest may have been a factor in the directors seeking an overseas custodian in the form of Northern Trust?

Mr Costello—No.

Senator WATSON—Coming back to my earlier question about the decision to appoint, which came as a surprise, Australia is something of a leader in terms of its expertise and reputation in custodial services and it certainly has scale as well to support it. In effect, does the contract allow for the charging for extra services in addition to the normal custodian fee? Does the contract recognise a different level of fees attributable to the different nature of some of the assets held by the custodian?

Mr Costello—The contract does recognise that the ultimate price is a product of a series of individual pricing of individual transactions. So the contract certainly allows for almost a menu of services, and obviously the total price will be the extent to which we use different

services. That may alter from time to time, depending on how our own internal operation develops and all sorts of things. Did I answer the question?

Senator WATSON—I think so. Therefore, can you satisfy the committee that Northern Trust's custodian's fees are commensurate with those custodians which normally operate in the Australian environment?

Mr Costello—I can confirm that their fees were very competitive and they are commensurate with the fees charged by the other four global partnerships which have a presence in Australia as well as around the world.

Senator WATSON—Also that they are competitive in terms of the other services that can be charged for, if required by the board?

Mr Costello—We are absolutely satisfied that both the quality of the service and the price represent value for money.

Senator SHERRY—I have a range of questions about the revaluation of unfunded liabilities, but that is not an issue for you, Mr Costello, so I will come back to those with the department. Was Mr Murray an apology today? In the past he has attended.

Mr Costello—Mr Murray obviously came to the first round and we have taken a view that, by and large, it is generally the government agency that would appear before this committee. So the position we have adopted is that, as the chairman of the board, which is his primary role, he would not normally be in attendance at these.

Senator SHERRY—For the record, I just express my concern at that approach, because Mr Murray is in the habit—the bad habit, I think—particularly on some occasions, of making public comment about the Future Fund and providing and proffering all sorts of views about the Future Fund. I do not begrudge him doing that—that is part of his role—but the fact is that he is not here to question about the various comments he makes from time to time. Please pass that concern on. We will certainly be pursuing it at the next round of estimates. I would certainly hope to not be pursuing it at the next round of estimates, given that we have an election in the intervening period.

Senator Minchin—Do not get too cocky, Senator Sherry.

Senator SHERRY—No, I am not being cocky. I said that I hope to not be pursuing it.

CHAIR—I should perhaps note for the record that Mr Murray did attend estimates at a time before Mr Costello had actually taken up his position.

Senator SHERRY—True, but I also recall that at the last estimates there was a joint appearance.

Senator Minchin—No, that is not right.

Senator SHERRY—I think that is right. Anyway, I make the point—

Senator Minchin—Mr Murray may have introduced Mr Costello to the committee, but it is always been, from the government's point of view, our understanding—and I think the understanding reached with the committee—that it would be the CEO of the fund, as it is the CEO of Medibank Private et cetera, who appears. It is the same with ARIA. I do not think that

should stop Mr Murray making public statements in his role as chairman, albeit that you do not like what he says.

Senator SHERRY—I did not suggest that—

Senator Minchin—But you are free to go and talk to him.

Senator SHERRY—No, I prefer to quiz him on the public record here. I think that is the function of estimates. But I do not see the chair of ARIA making public comments certainly to the extent that Mr Murray does. As I said earlier, I am not suggesting he should not make public comments. The important thing is that we test his public comments. But we will see what happens at the end of the year. I want to come back to one aspect of the Future Fund relating to the announcement of the higher education endowment fund in the budget. Mr Costello, could you outline what implications and issues of the proposed higher education endowment fund will need to be considered from the Future Fund's perspective?

Mr Costello—Perhaps I could just make a general comment, which is that we await clearly a great deal of detail on how this will work. For us it represents a very exciting new stream of activity, but we really have very little information to share with you. At this stage there has been an announcement in the budget and we are just thinking about that and we are waiting for further information to be provided to us on what is involved from our perspective.

Senator Minchin—Can I just interpose. Obviously what we have had is a statement of policy intent, and that is to devote \$5 billion from this year's surplus into a higher education endowment fund. That fund transfer would not occur until the final budget outcome is declared, which, as you know, is around September or October. That legislation will be required to give effect to the creation of the HEEF, as it is called, and it will be managed by the Future Fund board. So obviously we will now be entering into detailed discussions with the Future Fund over the terms of that legislation, which will obviously then be subject to parliamentary approval. There are a number of issues that will need to be resolved. But I do not think there is much we can add at this point.

The other point to make, I guess, is that I think it was announced at the time that HEEF will reside in the education portfolio because it is an education endowment fund and the distribution will be made through DEST. So it will actually be DEST legislation. But obviously Finance and Treasury, as the responsible entities with the Future Fund, and DEST will be negotiating with the Future Fund the terms of that legislation to give effect to that policy intent.

Senator SHERRY—I just want to go to a couple of issues that were contained in the announcement and possible implications. Before I do that, whilst we are on the issue of the \$5 billion commitment, isn't it correct, Senator Minchin, that you said on 26 March this year that 'this year's surplus and next year's surplus will be going into the Future Fund'? We have ended up with \$5 billion going into this higher education endowment fund.

Senator Minchin—I not sure what exactly I was reported as saying, but what I said, as suggested by you, is consistent with the general position of the government with respect to the Future Fund. There is misunderstanding about the Future Fund. Some assume that there is a formal decision that either all or part of a surplus will go into the Future Fund. That is not the

case. It has always been the case from its inception that the government would make discrete decisions about deposits into the Future Fund.

We indicated that prima facie proceeds of asset sales and surpluses, to the extent that our good management generates surpluses, would be deposited in the fund but always with the rider, as originally stated and made clear, that that would be a discrete decision made by government in each year as to the allocation of proceeds of asset sales and the allocation of surpluses. I suppose I was using shorthand in that interview and did not sufficiently specify the pre-existing and still extant rider that it is a discrete decision made every year based on the government's priorities, the needs of the Future Fund and what if any asset sales may have occurred.

Senator SHERRY—The quote did not go to asset sales—

Senator Minchin—I am seeking to explain to you that what was done in the budget was not contradictory to what I said because it has always been the case that we make discrete decisions.

Senator SHERRY—Put aside the issue of asset sales, I understand the issue of a year-by-year allocation in terms of the surplus and you did certainly say this year's surplus and next year's surplus were going to the Future Fund. But we effectively have a diversion of \$5 billion to a higher education endowment fund, albeit it is to be administered by the Future Fund, apparently.

Senator Minchin—I would not call it a diversion and I would not call it inconsistent with the very clear position the government adopted at the creation of the Future Fund that the source of funds for the Future Fund would be future surpluses and proceeds of asset sales but that at all times the government reserves the right to make discrete decisions on an annual basis. In this case, we have decided that—given the success of our management of the budget; we have healthy surpluses—in accord with our view of our priorities and the state of the fund, \$5 billion of the surplus generated in 2006-07 will be allocated to the HEEF. We have not made any formal decision on the remainder of the surplus. We do not know what the final surplus will be. That will be clear when we have the final budget outcome in September. The final size of this year's surplus is not yet clear. However, \$5 billion of it will go to the HEEF and we will then make a discrete decision with respect to what the balance of the surplus is having regard to the general policy in relation to the Future Fund's needs and source of funds.

Senator SHERRY—At this point in time, it could be zero in terms of the allocation from the budget surplus.

Senator Minchin—The policy of the government, at the declaration of the final budget outcome, is to consider on a discrete basis decisions with respect to those surpluses. For the last 10 years of course we have had to use surpluses to pay off debt. We now are in the position envied by many countries in the world where we do not have to use surpluses to pay off debt. We have devoted to the fund the full surplus from 2005-06. We have said that our objective with the fund is to ensure that it can meet the unfunded superannuation liability from 2020 on. One of our primary priorities is to ensure that the fund is in a position to meet that unfunded liability and therefore relieve the budget of the annual cost of superannuation payments by 2020. It would be reasonable to expect therefore, without a decision formally

having been made, subject to other decisions like the HEEF, that surpluses will be deposited into the Future Fund up to and until the point where the fund based on an actuarial determination got sufficient funds to meet the liability.

Senator SHERRY—Despite your outline and explanation, I want to go back to that quote of yours of 26 March. The respected economic commentator Mr McCrann, in an article in the *Herald Sun*, referred to the Treasurer's description of drawing down on \$2.7 billion of Telstra shares, which the Future Fund holds but which cannot be sold until November 2008. The Treasurer said that to build a national high-speed broadband network is 'shameful economic vandalism'—I have to say that is a somewhat over-the-top description by the Treasurer, but we are used to that—yet to take \$5 billion that was previously promised to the Future Fund to invest in higher education is 'a visionary initiative'. You do not accept the observations of Mr McCrann about the basic contradiction of the government's position?

Senator Minchin—No, I do not. I do not want this to descend into a political harangue, but there is a very big difference between your policy of taking moneys out of the Future Fund that have been deposited into it—

Senator SHERRY—Telstra shares.

Senator Minchin—In this case, Telstra shares. In other words, going beyond the veil of the fund itself, which involves directing the fund and taking assets of the fund for government party political purposes, as opposed to the prior issue of, having generated surpluses, deciding what is the most appropriate and important priority with respect to those surpluses—which is very different from attacking funds already in the Future Fund.

We have said that there are two sources of funds for the Future Fund: surpluses and asset sales. We have been successful with asset sales and with surpluses; that is why we have no debt and we have a \$51 billion Future Fund. The general policy, subject to other national priorities, is that surpluses will be deposited in the Future Fund to the point where it is able to meet the liabilities. In this case, in this budget, we have decided that, given the health of government finances and the importance of ensuring the endowment of our universities, prior to a deposit being made into the fund that is then untouchable, as far as we are concerned, and contrary to your position, \$5 billion of that surplus will go into a new Higher Education Endowment Fund. So there is a clear policy difference and I reject the proposition put by Mr McCrann.

Senator SHERRY—I put it to you, Senator Minchin, that it is \$5 billion into a Higher Education Endowment Fund that would have otherwise flown into the general Future Fund.

Senator Minchin—That is presuming what the government might do. As I said, there is not a formal decision that every dollar of every surplus will go into the fund. There is a decision that once moneys are in the fund we will not play politics with it or touch it. The policy position is that the sources of funds are surpluses and asset sales, but there is no decision that every dollar of every surplus will go into the Future Fund.

Senator SHERRY—As I say, we rely on your quote of 26 March this year, when you said: Certainly this year's surplus and next year's surplus will be going into the Future Fund.

Senator Minchin—That is in the context of the policy position that the source of funds is surpluses and that we want to ensure the Future Fund is able to meet the unfunded liability. But there has always been the rider, and it has always been the government's policy, having set up the fund, that a discrete decision would be made each year as to the direction of surpluses.

Senator SHERRY—And your discrete decision is that \$5 billion, rather than going into the Future Fund, is now going to go into the Higher Education Endowment Fund. It is a different purpose.

Senator Minchin—Fortunately, we are in a position where we do not have to pay off your debt and we can make discrete decisions about surpluses in this case. We have always reserved the proper authority to make discrete decisions about surpluses. In this case we have decided that there is a priority for the endowment of universities and that the surplus is such that we can devote, prior to any deposit into the Future Fund, \$5 billion to that fund. Once we have the FBO, we will make a decision with respect to the Future Fund.

Senator SHERRY—I have about five minutes of questions for Mr Costello on the Future Fund. They go to some of the issues on the implications of the Higher Education Endowment Fund announcement. We have already discussed thoroughly the \$5 billion allocation, which was one part of the announcement. But it is also an announced part of the policy that the HEEF would be structured to receive philanthropic donations from the private sector, manage individual institutions' endowments, encourage philanthropic support for universities from individuals in the corporate sector and allow individuals—and presumably corporations as well—to make philanthropic contributions. Don't those announcements have significant new administration matters that you would have to consider, going forward, in terms of the current structure of the Future Fund?

Mr Costello—I think the answer to that is yes. It clearly changes what we do, which is why we are so keenly awaiting further details of how that might work. But I think the answer to your question is that it would certainly add some new dimensions to our operation.

Senator SHERRY—On the basis of the policy announced at the moment, as you are evolving, you are a wholesale funds operation—you are not paying our moneys to individuals—whereas, with the new endowment structure, you would be receiving moneys from individuals, corporations and universities. Presumably at some point in time you would be paying moneys out. Effectively, part of your operation becomes individual retail, if I could use that description, which would require, I would have thought, some serious consideration as to the administration structures of the fund.

Senator Minchin—It may.

Senator SHERRY—I think it would; I think that is reasonable.

Senator Minchin—We are at an early stage of developing this, but I think the way you could think of it is that the board of guardians that we have had up to this point has had responsibility for the Future Fund. It will also now have separately a responsibility for a higher education fund. You will have the one board with two funds underneath it. As you well know, we have had the one board responsible for the CSS and also the PSS. They are two different funds and two different operations. But the one board performs the two functions. I

assume that is really what will evolve. But you are quite right to point to the different nature of HEEF compared to the Future Fund. That will need to be taken into account.

Senator SHERRY—Aside from the administration issue, because you will effectively be paying some moneys out of your pool of funds earlier because you are effectively investing the \$5 billion HEEF, will that have implications for cash flow liquidity that you would need to consider in order to make payouts earlier?

Mr Costello—Again, with the caveat that all of the detail is yet to be provided, based on what has been published and what you have just repeated, we will need to think about a separate investment strategy for this pool of money relative to the pool of money for which the present instructions are—that it is a pool of money that essentially we do not need and nothing will be withdrawn from it for more than 10 years. After that time distributions will happen. So you can appreciate that you are looking at two very different tasks, even though clearly there will be some common infrastructure that will allow some efficiencies there.

Senator SHERRY—Yes. Given that we have acknowledged that there are some new types of work that would need to be considered, what about the additional cost that would be incurred? How is that to be borne? There is no additional budget allocation for the Future Fund for this purpose, as I understand it—for the HEEF. Has that been considered?

Senator Minchin—It is a matter yet to be resolved as to how that will be managed. You are right to say that there will be a cost associated with administering it. You know how the Future Fund is administered, but we will need to resolve finally the question of the administration costs of the HEEF—you are quite right.

Senator SHERRY—And how they will be ultimately paid for—whether it is an off-budget allocation or debited against the operation—

Senator Minchin—Effectively you have two sources—budget funding or the fund itself.

Senator SHERRY—That completes my questions on the specific Future Fund.

CHAIR—Mr Costello, I just want to return to the issue of political interference in the fund and attempts to interfere in your operations. Labor and Mr Swan state that they support the fund and the independence of the fund and then they go on to mercilessly bag the decisions of the fund. It is a usual trick by the Labor Party, trying to have it both ways. We have seen it with Reserve Bank of Australia as well.

You have been appropriately diplomatic in your responses today, and I commend you for that. What you have witnessed over the past 24 hours is actually an attempt to put political pressure on the Future Fund management board and to compromise your independence. We have already heard the stated intention by Labor of a small-and-grab raid on the Future Fund to fund their broadband proposal, and I do not propose to canvass that again here. In light of pressure brought to bear—

Senator SHERRY—Is there a question somewhere here?

CHAIR—If I could ask this of Mr Costello: in light of pressure brought to bear over the last 24 hours, could you guarantee that the fund will resist all political pressure by the opposition to compromise the independence of the fund?

Senator Minchin—I appreciate where you are coming from Senator Fifield, but I do not want Mr Costello to feel that he has to engage in any partisan remarks. I am sure he can vouch for the determination of the fund under its charter to act independently. I do not want Mr Costello to feel that he is caught in the middle of a political football match. Mr Costello, feel free to say whatever you think is appropriate.

Mr Costello—I think I am well advised.

CHAIR—Would you agree that one of the great protections for the Future Fund's independence is the calibre and character of the guardians?

Mr Costello—Yes. For me, the board represents a very high-quality organisation from which to take direction and guidance. For the people I am trying to attract to join the organisation, the board is a critical part of what would attract them to leave where they are. By and large, these people are in good roles they enjoy and are leaving them to come and join this one. I am very conscious of the challenge I have to attract people to come and work for the organisation. The quality of the board is a critical part of that.

CHAIR—Thank you. What is the appointment mechanism for the guardians of the fund?

Senator Minchin—It is by cabinet. The Treasurer and I, as the joint and responsible ministers, write to the Prime Minister and propose an appointment. The Prime Minister either decides himself or takes it to cabinet. All the appointments have gone to cabinet and all were agreed by cabinet.

Dr Watt—Consistent with Uhrig principles, the chairman provides advice on potential appointments.

CHAIR—Does the Governor-General in Council give effect to these?

Ms Campbell—We would need to check on the detail of that.

Senator Minchin—They are certainly all cabinet appointments, and I am flattered by the quality of the people who have been prepared to serve on this board.

CHAIR—If that is the appointment mechanism, what would be the mechanism for dismissing or replacing a guardian?

Senator Minchin—I am not sure off the top of my head. They serve for specific terms and then it is a question of whether they are reappointed. Fortunately the board has only just been appointed, so we have not needed to address the issue.

Ms Campbell—Within the Future Fund Act, section 44, 'Termination of appointment of Board members', says:

(1) The responsible Ministers may terminate the appointment of a Board member for misbehaviour or physical or mental incapacity.

(2) The responsible Ministers may terminate the appointment of a Board member if:

(a) the Board member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (b) the Board member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
- (c) the Board member contravenes section 56, 57, 58, 59, 60, 61 or 62; or
- (d) the Board member fails, without reasonable excuse, to comply with section 68, 69 or 71; or
- (e) the responsible Ministers are satisfied that the performance of the Board member has been unsatisfactory for a significant period.

CHAIR—There are no other grounds upon which the—

Senator Minchin—There is no basis for ad hoc dismissal; it has to be in accordance with the act.

Senator MURRAY—Common law applies, doesn't it? Any board can ask for the resignation of a board member for good cause, based on the principles of jurisprudence.

Senator Minchin—Sure, but in terms of the authority of ministers to dismiss it is governed by the act.

Senator MURRAY—Yes, that is right.

CHAIR—So a government could not at whim just decide to terminate the board?

Ms Campbell—It is quite clear in section 44 of the act the reasons for termination of appointment of a board member.

Senator Minchin—It might be unlawful dismissal, I think.

CHAIR—That gives me a great deal—

Senator SHERRY—Not under the current Work Choices legislation it would not be.

Senator Minchin—There is still unlawful dismissal, Senator Sherry.

CHAIR—That does give me some degree of comfort should there be a change of government.

Senator SHERRY—I have some questions on the revamp of the actuarial debt.

Senator Minchin—That is not a matter for Mr Costello.

Senator SHERRY—Is it a matter for the agency?

Dr Watt—We are the department, Senator.

CHAIR—After the suspension we will ask general questions of the Department of Finance and Administration.

Proceedings suspended from 3.57 pm to 4.17 pm

CHAIR—We will now turn to the Department of Finance and Administration general questions.

Senator SHERRY—Dr Watt, I placed on notice on 28 March about 18 questions that went to some matters relating to efficiency dividend wage cost indices and, in outcome 3, the processing of travel allowance forms. Do we have a response to those, please?

Dr Watt—Do we have one yet?

Senator SHERRY—Yes.

Dr Watt—I think the answer is no. I see all questions on notice that the department does, and I would remember the efficiency dividend one, Senator, as we so often discuss it—

Senator SHERRY—I am sure you would.

Dr Watt—and wage cost indexes. I can find out how far we are away and where they are for you.

Senator SHERRY—Can you let us know later in the hearing?

Dr Watt—Yes, during the course of the hearing.

Senator SHERRY—We will be here until the evening. I wanted to go to some issues relating to the ER process and the use of existing resources to fund new policies. The first question is: is there an ERC process, and under what circumstances can ministers' departments use existing resources to fund new policies?

Dr Watt—There are two separate questions. I might get Dr Grimes, the head of budget group, to join me. It is possible to reallocate resources. Normally that involves seeking the Prime Minister's agreement to the reallocation between outcomes within a department. We can get those exact amounts.

Senator SHERRY—Just go to the process at this point.

Dr Watt—That can be done without resort to ERC. But should a minister put up a new policy proposal to ERC, they are of course perfectly at liberty to offset all or part of that expenditure proposal from existing sources of funding. ERC have the ability to agree or not agree to that. They also have the ability to say when a minister is seeking additional resources that some or all of that will be absorbed from within their existing pool rather than confirmed as new money.

Senator SHERRY—If that process does not proceed and a program is underspent in one financial year, does it then automatically return to consolidated revenue?

Dr Watt—It depends a bit on the nature of the program.

Dr Grimes—Yes, it does depend on the program. There will be some programs where funding is returned at the end of the year and others where the appropriation is available for a future period. Kathryn Campbell may be able to give you some more details on specific areas where this is possible.

Ms Campbell—Administered appropriations are generally for one year and they lapse at the end of that year. Departmental appropriations do carry over, unless a minister asks the Minister for Finance and Administration to lapse them. A special appropriation, or a standing appropriation, is an estimate of what will be spent out of that appropriation in any given year and it is generally of an entitlement nature. The moneys just continue to come out, but it is not as if they carry to the next year; they start again for the next year.

Senator SHERRY—What about where a program cost is revised down during the financial year, resulting in some excess funding becoming available? How is that treated?

Ms Campbell—If it were a departmental program—and generally programs are of an administered nature—the secretary or the chief executive of the organisation is able to use those funds in managing the organisation. In an administered appropriation, if the program is within one outcome the funds can be used for the purposes of that outcome within that year.

Dr Watt—But that is not all that likely. If you are talking about administrative expenditure and the program is not fully spent, it would almost certainly come back to budget. I am seeking confirmation of that.

Ms Campbell—It depends on how many programs are in the outcome.

Dr Watt—Sure.

Senator SHERRY—Generally, department by department and in the aggregate in terms of whole-of-government expenditure, what has been the level of underspends and has there been a trend upwards in allowing ministers to keep underspends within the parameters you have outlined?

Dr Watt—In response to the second part of the question, the answer is, no, there has not been a tendency for ministers to keep more underspends than previously. Is that reasonable, Kathryn?

Ms Campbell—Dr Grimes would probably be the person to ask.

Dr Watt—Dr Grimes is nodding that he is the person responsible.

Dr Grimes—I have been in my current position for about four months, so I find it difficult to talk about longer term trends.

Senator SHERRY—But knowing how capable you are, Dr Grimes, I am sure you would have examined previous material prior to actually taking up your post.

Senator Minchin—Flattery will get you nowhere.

Dr Watt—Back over several decades, I am sure.

Senator SHERRY—Yes, that is right. I have great respect for Dr Grimes's ability. Have you noticed a trend, Dr Grimes, in your examination of this material?

Dr Grimes—I could not personally comment. I have not been examining that personally in recent months. I have to say that it does not strike me that there has been a very strong trend here. There certainly have been underspends in recent years—there is no doubt about that—and that has been evident in some of the budget updates, including in final budget outcome reports. So there has certainly been a degree of underspending. It has actually been a focus for us as a department to look at working with other departments and agencies in identifying those underspends at the earliest possible opportunity to ensure that the estimates are as accurate as we can possibly make them.

Dr Watt—This may or may not introduce an unwanted complication but, it should be noted that you can only have an underspend in the current year—you can only spend money in the current year. You may have an estimate that is too generous in the outyears. If you reduce that, that is changing an estimate but it is not changing a spending pattern. It is only in the current year that the money would not be spent. People sometimes talk about underspends

over the forward estimates, but the answer is that, by definition, because the forward estimates are no more than estimates, you cannot actually underspend on them.

Senator MURRAY—That is right.

Senator SHERRY—Dr Grimes, you were not able to use words ‘a strong trend’, but is there a trend?

Dr Grimes—I was certainly talking about essentially an impression. To do something more definitive, you would have to conduct some more complete analysis. I am not aware of analysis that shows that there has been a strong trend.

Senator SHERRY—But a trend?

Dr Watt—I think you might be putting words into Dr Grimes’s mouth, Senator.

Senator SHERRY—I am trying to make a distinction. A strong trend seems to me to clearly imply that there has been an increase. You can argue about the level of increase. So it is not a strong trend, but there has been an increase?

Dr Grimes—I certainly do not have the data here to be able to confirm that there has been an increase.

Senator SHERRY—You can withdraw the words ‘it does not seem to be a strong trend’ then.

Dr Grimes—All right.

Senator SHERRY—I have some questions about the treatment of depreciation. Should I ask that here?

Dr Watt—You might as well, Senator.

Senator SHERRY—Can you outline how the treatment of depreciation across departments occurs at present?

Ms Campbell—Currently, agencies are provided funding as part of their annual departmental running costs for depreciation of items.

Senator SHERRY—I will not go to the specific items in the budget, but there are a number of additional allocations. A couple come to mind, but I will use IT as an example. IT is included in depreciation across departments, is it not?

Ms Campbell—It is included, but the depreciation amount is obviously worked out on the value of the original asset. Sometimes when an asset is replaced the value will have increased, so the agencies will not have been able to accumulate sufficient depreciation funding to replace that asset and may need to come to the budget for additional funding. Some assets that were before depreciation funding was introduced did not have depreciation, so the assets were in place and the agencies had not had an opportunity to receive depreciation funding.

Dr Watt—If you develop an IT system in-house without getting additional budget funding, you have to find your own depreciation from your own running costs.

Senator MURRAY—That answer would probably go to long-life assets. They would be affected like that, but IT assets are typically short term in terms of life.

Dr Watt—If you are asking about pre 2000, it is unlikely that there would be any IT assets from pre 2000 that are still at issue. But even short-life IT assets are subject to depreciation.

Senator MURRAY—The point Ms Campbell made was that there were assets prior to the implementation of a funding depreciation measure. Those would only be long-life assets, and IT assets, typically, do not fall into that category.

Dr Watt—They would have all been depreciated away, probably just as the other major source of depreciation is usually fit-out—

Ms Campbell—Fit-out and furniture.

Dr Watt—and there would not be many fit-outs you would still be depreciating from pre-2000.

Senator SHERRY—But there would be circumstances where perhaps additional requirements are added to existing IT and therefore an adjustment in depreciation would be required as a consequence of that.

Dr Watt—You could have a re-lifing, which would change that, yes.

Senator SHERRY—I am thinking in particular of the ATO's IT requirements for implementation of the Simpler Super. They have clearly got existing IT but there will be significant upgrade to the IT, therefore, presumably, a more valuable asset and therefore greater depreciation.

Dr Watt—That is correct, I would have thought, insofar as you are actually adding to the IT system.

Ms Campbell—When the government does provide capital money for a new asset, depreciation funding is also included for the agency.

Senator SHERRY—I understand that there was some evidence in the hearing earlier today in respect of the AFP about the agency's current ratio of assets over liabilities. It was indicated that there is a rising ratio because of two factors: implementation delays and funds allocated for depreciation not yet spent on capital upgrades, both historic and projected. Can the department of finance throw any light on that earlier evidence?

Dr Watt—Sitting here and now, in terms of that question, no. Is there anything more specific you want to ask?

Senator SHERRY—There is a request for a private briefing on behalf of Senator Ludwig, who asked the questions about how the department of finance is overseen. I have been asked to convey to you the issue in respect of the AFP.

Dr Watt—Which issue?

Senator SHERRY—The solvency of the agency in respect of the current ratio of assets to liabilities.

Dr Watt—The AFP, as far as I am aware—and I think I would be aware—has not approached us on an issue of financial solvency, not in any size, shape or form. We do not have the AFP financial information with us here and now so we cannot even have a quick look and comment. But, no, we have not been approached; it has not been raised with us.

Senator SHERRY—In Budget Paper No. 2 on page 309, Treasury was allocated additional resourcing—\$27.1 million in additional funding over the forward estimates—for Treasury ‘to help sustain its role as a key central policy agency and to provide timely and comprehensive policy advice to the Treasurer and the government’. Why is there an additional allocation of money for Treasury when Treasury currently is a central policy agency providing timely and comprehensive policy advice?

Senator Minchin—That is probably a question better directed to Treasury when you have them. Let them explain to you why they needed that additional moneys rather than asking us.

Senator SHERRY—I just wondered why it is that—presumably Finance were consulted about this—Treasury needs additional resources to do something it already does.

Senator Minchin—I think they put a case to the ERC, which was accepted, that, to do their job to the degree of professionalism, accuracy and quality that they wanted to achieve, extra resources would be needed which would enable them to achieve that level of quality, and the ERC was persuaded by their case. It is not really a matter for Finance per se. If you want to pursue what it is that Treasury is going to do with the money—

Senator SHERRY—No, I will do that with Treasury.

Dr Watt—I think the answer is that they felt that they had taken on additional responsibilities and an additional workload, and they have their responsibilities with the Treasurer and, through the Treasurer, with the government, and they put a case to the ERC in that context. We certainly looked at their case. We looked at everything.

Senator SHERRY—I can go to the specifics with Treasury, but is Finance able to recall another example in recent times where a department has been provided with additional departmental funding to undertake its core role?

Dr Watt—Yes.

Senator SHERRY—Such as?

Dr Watt—The Department of the Prime Minister and Cabinet and the Department of Foreign Affairs and Trade in the last 12 months. Again, you say ‘core role’, but ‘core’ is a very broad and all-encompassing word. For example, for the Department of the Prime Minister and Cabinet, in the core role of coordinating government policy advice and advising on government policy, the Department of the Prime Minister and Cabinet is taking on a number of additional functions and a number of additional task forces. They are not specifically resourced for those functions, even though they are part of the core business of pulling together policy advice. Therefore, they are provided with additional resourcing for those functions. In a sense, while it is core, ‘core’ does not mean that you always have the money to do it even if it is part of your core business. The Department of Foreign Affairs and Trade have similar issues.

Senator MURRAY—Just out of curiosity, Minister, when the ERC meet on a matter of Treasury, does the Treasurer excuse himself a conflict-of-interest basis?

Senator Minchin—He remains there as a member, but he is effectively wearing two hats—he is an advocate as well as a member of the committee. Other members of the committee understand that he is wearing two hats, I suppose.

Senator MURRAY—So you do not get a chance to beat up on him in his absence?

Senator Minchin—No, we beat up on him in—

Senator SHERRY—He is silent, is he?

Senator Minchin—He has to put his case and we, appropriately, run him through the mill to make sure his case stands up, as I do if I have to put a case for Finance.

Senator SHERRY—I was actually going to get to you.

Senator Minchin—I must say that I have not noticed the Prime Minister coming to advocate cases for PM&C.

Senator SHERRY—In this year's budget we had Treasury getting an additional allocation and we also had Finance getting an additional allocation. I was confident that Dr Watt could throw some light on that.

Dr Watt—I could throw a great deal of light on that, Senator.

Senator SHERRY—I thought you could.

Senator Minchin—We have to set an example for everyone else.

Senator SHERRY—It struck me as such a coincidence that Treasury and Finance got their additional allocations in the one budget. It is just coincidence, is it?

Senator Minchin—We had additional responsibilities.

Senator SHERRY—There was no pact of mutual support in these ERC exchanges, was there?

Senator Minchin—There was nothing like that.

Dr Watt—I think you will find that amongst essential agencies there is a very healthy degree of competition. There is a degree of competition that far exceeds, I would say, the degree of competition between essential agencies and the line agencies. Everyone watches everyone else very closely.

Senator SHERRY—It just struck me, looking at Treasury and Finance, that they both got their—

Senator Minchin—It is coincidental.

Senator SHERRY—It is totally coincidental, of course. On page 200 of Budget Paper No. 2 it outlines program review enhanced framework and an additional \$19.8 million over the forward estimates for Finance to establish and an enhanced framework for the strategic review of government programs, including funding for a team within Finance and Administration together with funding to undertake approximately 14 reviews per year. Can you confirm that the administrative arrangement orders issued on 16 December 2004 list budget policy advice and process and review of government programs as one of the principal responsibilities of the Department of Finance and Administration?

Dr Watt—I am sure that is correct. I not have the AAOs in front of me, but I have no doubt that is correct.

Senator SHERRY—Isn't Finance currently not undertaking review of government programs as part of its overall role?

Dr Watt—The answer is that we do, but what we do not have the opportunity to do is stand back and take a holistic look at major clusters of programs. This has been something that we have been concerned about for some time. There are various ways in which programs are reviewed. They are reviewed by agencies. We have lapsing program reviews. We have looked at a number of different things. But we do not have a chance to do what I would call medium-term reviews that can take several months, looking at how effectively and efficiently programs work as a group and, by the way, getting those reviews done by people who are not line finance officers involved in the day-to-day hurly-burly of budgeting, because it just does not happen. The budget now runs, as far as we are concerned, from 1 July to 30 June and in between that time you get a couple of minutes off. It is not quite that bad, but it is pretty busy.

The idea of the strategic program reviews was to try to get groups of programs reviewed by involving outside expertise—by involving people from agencies, by getting people to come to Finance to work with us on the programs—and doing it over a period of several months. The objective is program efficiency and effectiveness. It is not about savings. If we find some savings we would be delighted, but that is not what we are primarily about. That is a different form of program review, often a bit shorter, sharper and bloodier. This is more about trying to look at the effectiveness and efficiency of programs to make sure they work properly, and this is primarily to fund a small secretariat in the department, a few people, and the review teams, including the people we draw on from outside.

Senator SHERRY—So would a new unit be established?

Dr Watt—We have established a new branch in the Financial Management Group. By the way, except for the secretariat, this money is being provided to us on the basis of a no win, no loss supplementation. It is not common. Effectively, if we do not spend the money on program review, we give it back. If the government say, 'Double the number of program reviews; we like them so much that we want you to do more,' they will give us more money.

Senator SHERRY—Did I hear you correctly? Did you say within the international branch?

Dr Watt—Within the Financial Management Group. I do not think I said 'international'. We do not have one of those; we are domestically focused.

Senator SHERRY—Sorry, I misheard you.

Senator MURRAY—Just to clarify: what is the name of the branch?

Ms Campbell—It is called the Reviews and Training Branch. We actually have two functions under the one branch manager.

Senator SHERRY—Can you give me an example of an area that you will be perusing in this way?

Ms Campbell—Each year we will take to senior ministers, in consultation with Treasurer and PM&C, a list of possible areas for consideration, and senior ministers will decide upon where we will go and with what types of reviews. We are looking at major programs, often

where there is an interaction between different agencies within the Commonwealth and with the states—so larger areas of expenditure.

Senator SHERRY—I want to briefly return to the issue of depreciation. Accrual budgeting agencies are provided with annual appropriations to cover depreciation expenses. That is correct, isn't it?

Ms Campbell—Their depreciation is provided as part of their departmental expenditure. It is a departmental appropriation and so they retain that at the end of each year.

Dr Watt—Where they bid and succeed in getting a new policy.

Ms Campbell—Yes, and since we introduced it.

Dr Watt—Otherwise it is in abeyance.

Senator SHERRY—Based on the earlier discussion, how do you ensure that double dipping does not occur?

Dr Watt—On depreciation?

Senator SHERRY—Yes.

Dr Watt—What do you have in mind with 'double dipping'?

Senator SHERRY—There is an annual appropriation for a depreciated area and then a department may effectively claim for part of what is already accrued/appropriated and in that way try to double dip.

Dr Watt—If you were putting up a new policy proposal, part of the scrutiny of the costings of that proposal would be what existing sources of depreciation should you have from past experience and what do you have now. That would be taken into account in costing the proposal. When agencies are bidding for capital items, we always look for contributions from past or current depreciation.

Senator SHERRY—Is Finance able to provide the total amount of actual depreciated expense for each of the years 2000-01 through to 2005-06 funded through prices of outputs, appropriations or other appropriations?

Ms Campbell—We would have to take that on notice and see how easy it would be to do that. We can, of course, go to the financial statements and look at the expense that an agency put in for depreciation. Whether or not that was funded may be a little harder to track, but we will take that on notice.

Senator SHERRY—I anticipated that would be the approach. And what about the total amount of actual expenditure on asset replacement for each year over that period that I have just referred to?

Dr Watt—We can take that on notice. I will just make one point: it is easy to pick up the large items but we just will not pick up some of the asset replacement that agencies do themselves.

Senator SHERRY—I accept that.

Ms Campbell—And, below a certain threshold, they will not report it.

Dr Grimes—A further complicating factor will be separately distinguishing capital acquisitions for new things, as opposed to things that are genuinely replacing existing assets—so trying to separately identify those.

Senator SHERRY—Also, could you take on notice the additional appropriations that have been necessary to fund asset replacements, where they have occurred?

Dr Watt—By that do you mean where the initial appropriation has proved insufficient?

Senator SHERRY—Correct. The procurement guidelines, I understand, make it clear in section 8.6 that procurement for services with a value of over \$80,000 must be put out to either open tender or select tender.

Dr Watt—That sounds correct.

Senator SHERRY—And only under specific conditions may contracts be directly sourced.

Dr Watt—I will get our procurement expert. We have Mr John Grant, who is head of our procurement area.

Mr Grant—I am sorry; I missed the question.

Senator SHERRY—The Commonwealth Procurement Guidelines make it clear in section 8.6 that procurement for services with a value of over \$80,000 must be put out to either open tender or select tender.

Mr Grant—That is correct.

Senator SHERRY—And the conditions under which contracts may be directly sourced?

Mr Grant—Are you asking: under what conditions can they be directly sourced?

Senator SHERRY—Yes.

Mr Grant—There are a range of scenarios where they could be directly sourced. First of all, all tenders over \$80,000 are expected to go to open tender. The second part of that, though, is that agencies are setting up tender panels for things like legal services. Often with the legal panels or any other panel, once they are set up, the agency can go directly to the supplier. That may look like a direct source but it is not because it has been through an open tender process. Another scenario where direct sourcing may exist is where you go to tender and receive no tenders or the tenders that are submitted either do not meet the requirements or do not meet value for money, in which case you may go to direct source.

Senator MURRAY—How often is the panel refreshed?

Mr Grant—Panels are refreshed depending on the way in which the panel has been structured. Usually it would be probably every three years but it can be one and it can have contract adds, like three plus two or something.

Senator MURRAY—Isn't that dangerous? I can understand a panel being made available for, say, advertising or legal services—even accounting services—but I would have thought you would need to refresh their open tender at least annually if you are going to them on a fairly regular basis.

Mr Grant—It depends very much on the agency's desires for the panel. Some panels will in fact include a review of pricing each year. Others may set a fixed fee or rate for a period of time. It depends on the nature of the panel and the agency's approach.

Senator MURRAY—Do you know any panels that last longer than three years?

Mr Grant—Not that I am aware of, no.

Senator MURRAY—Have you checked?

Mr Grant—No.

Senator MURRAY—So it could happen.

Mr Grant—There is potential, yes, but, as I said, I am not aware of any in particular.

Senator SHERRY—Senator Murray has led into the area that I was going to ask some questions about. Does the responsibility for ensuring compliance with the investigation and a possible breach of Commonwealth Procurement Guidelines rest with DOFA?

Mr Grant—No. The responsibility for procurement lies with the chief executive of the agency in accordance with section 44 of the Financial Management and Accountability Act. Where there are problems—for example, where a supplier may make a complaint—they will normally go first to the agency and lodge their complaint. The agency is expected to have an appropriate complaint handling process to deal with that. If the supplier is still not satisfied with the outcome, they have the choice of going to the Ombudsman or potentially to the courts.

Senator SHERRY—Are there any audit and surveillance processes to ensure that the splitting of contracts to get below the \$80,000—which is obviously possible—does not happen?

Mr Grant—There are a couple. First of all, the ANAO, the Australian National Audit Office, look at contracts reported each year and do it as part of the Senate order, and they do the annual reporting and the AusTender comparisons annually. Agencies would also have internal audit processes to look at those sorts of things.

Senator MURRAY—Dr Watt, I am a bit concerned at the potential—maybe it does not exist in practice—for panels to last longer than the cycle of a government, which is three years, a triennial period. Could I ask you on notice, perhaps, to think about that and to come back to us with whether you think that needs to be reviewed? I would have thought it should be subject to a finance minister's direction if there is an open-ended possibility. I cannot see a circumstance where a panel would not need to be refreshed every three years but it might need some further thoughts. Could you think about it—

Dr Watt—We are happy to take that on notice.

Senator MURRAY—and come back to us with a view?

Dr Watt—One point I would make with regard to the issue about longevity of panels is that if you, as a CEO, believe that your panel was not giving you value for money, I would have thought that that would be the best reason for not allowing your panel to last very long.

Senator MURRAY—Yes, but where for some CEOs there is the ease of dealing with people who are well-established, where the relationship is known and where you do not have to go out to a tender, and if they think there is overall value for money, I just think it is bad practice for them not to be formally refreshed every three years. But there may be issues that I am not aware of, and that is why I would ask you to come back to us with a considered view.

Dr Watt—We will do that.

Senator SHERRY—I take it, given your earlier comments, that the department of finance is not aware of any contracts for government advertising that were not publicly advertised in excess of \$80,000.

Mr Grant—No. Perhaps I can explain. It is up to each agency to advertise contracts awarded within six weeks of their commencement. So it falls within the responsibility of the agency to do that. AusTender provides the mechanism that they are advertised on.

Senator SHERRY—So at this point, in terms of the oversighting, if you like, and even in terms of reporting back to the department of finance, there is none.

Mr Grant—No. There is no monitoring or reporting back role.

Senator SHERRY—Just for the matter of completeness, we have taken a keen interest at estimates in compiling current advertising programs that are taking place. We have a very lengthy list, I must say. I am surprised the private sector can actually get on TV at the moment. But, for the record, the department of finance has no advertising programs in place or planned to take place above the value of \$80,000?

Dr Watt—Not that I am aware of, beyond the very occasional newspaper advertising we do to recruit staff.

Senator SHERRY—I am just asking for completeness, because almost every department have these massive advertising programs.

Dr Watt—We are the exception that proves the rule.

Senator SHERRY—You are the exception.

Dr Watt—We did have one with T3, which you would be aware of—

Senator SHERRY—Yes.

Dr Watt—But that has now finished, except when we collect the next instalment, which will not be for another 12 months.

Senator SHERRY—That is 12 months away. Nothing else?

Dr Watt—No.

Senator SHERRY—I had some questions about the Land Fund, which is distributed to the Indigenous Land Corporation.

Dr Watt—Which aspect?

Senator SHERRY—I am going to get to that. I have a fair amount of questioning on public sector super, but I did not want to jump ahead of that. I have not asked questions in this area before.

Dr Watt—It is fair to say that we may not have the necessary expertise to answer those questions, but we will see.

Senator SHERRY—The Indigenous Land Corporation receives an allocation from the Land Fund according to a formula which is specified in the ATSI Act of 2003-04. Does Finance have any role in overseeing that Indigenous Land Fund Special Account within FACSIA?

Dr Watt—We will find the person who can perhaps help you. We have just discovered that we have changed hats, and we are finding the right hat. Senator, would you mind repeating the question?

Senator SHERRY—Sure. I have not asked questions in this area before. The Indigenous Land Corporation receives an annual allocation from the Land Fund according to a formula set in the ATSI Act of 2003-04. Does the department of finance have any role at all in the oversighting of that Land Fund and the allocations of money made from it?

Mr Ignatius—My understanding is that we have not had an extensive role in that. There have been some recent discussions about the allocation from that fund, as that legislation has meant that the basis of the funding to the ILC has changed in recent years. There have been some discussions between the department and Finance on the funding for the ILC.

Senator SHERRY—I understand that this primarily FACSIA, but on page 51 of the FACSIA PBS it itemises \$94.5 million from the Indigenous Land Fund Special Account as available for spending. Do you know whether this source of income can be used by FACSIA for purposes other than transfers to the Indigenous Land Corporation?

Mr Ignatius—Your question would be best directed to FACSIA. I do not have a detailed understanding of that. My general understanding would be no, it cannot be used for other purposes. But it is really a legal question of what the legislation allows.

Senator SHERRY—I do not know whether you are aware of this or not, but there appears to be a large discrepancy between the estimated revenue from the Land Fund received from the Indigenous Land Corporation in 2006-07. The PBS indicates \$25.3 million, and the amount actually received is reported on page 247 as \$96.4 million. Has Finance had any indication as to why that discrepancy, on the face of it, has occurred?

Mr Ignatius—I cannot say I have any knowledge of that.

Senator SHERRY—It appears that the Indigenous Land Corporation will be receiving none of the earnings from the fund in 2007-08.

Mr Ignatius—I know the receipts to the ILC have been very lumpy because of the earnings of the fund. The nature of the earnings of the fund have varied from year to year, and so there is not an even profile of funding for the ILC.

Senator SHERRY—I am just puzzled. I accept that what you say would answer that to some extent, but the lumpiness in 2004-05 was just a shade over \$4 million; in 2005-06, it was \$23.8 million; in 2006-07, it was \$96.4 million; and in 2007-08, it is to be zero. I can understand variability in earnings, but it would not seem to explain that degree of lumpiness.

Mr Ignatius—I am not familiar with the nature of the earnings and investments but I am aware that it has been highly lumpy in recent years as to when those earnings are accounted and how they flow through in subsequent years. The pattern going forward, as I understand it, is fairly similar to that: it is essentially a two-year cycle where there is a high return and then a very low return, then a high return and low return.

Senator SHERRY—Is there currently a dispute, discussion—I do not want to overstate it—between the department of finance and the ILC as to the correct interpretation of the realised real return?

Mr Ignatius—There have been discussions to clarify how that realised real return should be calculated, and agreement has been reached on it.

Senator SHERRY—That goes back in part to the lumpiness issue.

Mr Ignatius—That is right; in terms of how that is defined.

Senator SHERRY—What is your understanding of the agreement that has been finalised on the realised real return?

Mr Ignatius—I am not familiar with the detail of it, except that there was clarification needed to ensure that the amounts that were calculated were actually correct. I could take it on notice. I think we can get that to you.

Dr Watt—We can get that tonight for you, Senator, if you would like.

Senator SHERRY—Okay. I want to move to a number of issues relating to some aspects of public sector superannuation advice. I will start with the issue that we have discussed on a number of occasions previously: the commitment to introduce reversionary benefits for same-sex couples in the public sector. The minister may be able to enlighten me on this but I recall, Minister, you using a figure of some \$2 billion approximately—is that right?

Senator Minchin—I think Senator Murray asked me a question about this and used the \$2 billion figure and I think I effectively—

Senator MURRAY—Let us for the record remind everyone that I said I thought you were sympathetic on the issue.

Senator Minchin—Thank you, I apologise for mishearing you but I think Senator Ray was also guilty of mishearing you. I apologise for biting your head off. I think my recollection is that Senator Murray used that figure in his question and I effectively confirmed that that is the approximate addition to the overall unfunded liability based on the actuarial advice to me of that change to the policy.

Senator SHERRY—Is that the estimated \$2 billion as of, say, tomorrow, if it was introduced, or is it the \$2 billion in 2020?

Senator Minchin—I will defer to my officials.

Ms Campbell—That increases, I think, in 2009-10. That is what the impact on the unfunded liability would be as at that date.

Senator SHERRY—But it is not the impact on the budget.

Senator Minchin—No. It is the unfunded liability.

Senator MURRAY—Some people make the mistake of thinking that is the—

Senator Minchin—I have always been clear—

Dr Watt—It is the balance sheet.

Senator MURRAY—I know you do not; but other people do.

Senator Minchin—It is the unfunded liability.

Ms Campbell—It was actually 2010-11.

Senator SHERRY—Thanks for that clarification. We discussed it on previous occasions, but there are two approaches that could be taken: the additional annual cost could be added as a liability to the fund or, alternatively, could be funded on the budget by a specific allocation each year.

Ms Campbell—Each year?

Senator SHERRY—Yes; on a year-by-year basis.

Ms Campbell—That would still need to happen. The unfunded liability would still increase and we would then need to pay out that increased amount on an annual basis.

Senator SHERRY—Given you have the \$2 billion calculation, do you have an estimated cost as to what it would be? Let us take the 2009-10 year. What would the payout figure be in that year?

Senator Minchin—We are not able to say what the cash effect will be. However, it would be quite small, certainly in the early years. I think it does build up.

Senator SHERRY—I assume it would, to some degree, grow exponentially.

Senator Minchin—Yes, I think so, but it is certainly quite low. I am happy to say that the government's failure to make a decision on this yet is not a function of the cash cost per se, because the cash cost is not the immediate issue. The more immediate issue, and why we have not made a decision on this, is the impact on the unfunded liability. So I am not seeking to make an issue of the cash cost. I know you have asked about this cash-cost issue before. I am still not in a position to say we can publish those figures, but I am happy to say it is not great in the early years but it does build up.

Senator SHERRY—So do we have any indication as to when a decision will be made?

Senator Minchin—On the question of interdependency?

Senator SHERRY—Yes.

Senator Minchin—I am not sure that I can add much to my answer to Senator Murray in the Senate the other day. I am personally pleased to have been able to persuade the government to make some important changes to the existing PSS, which gives more flexibility and will assist people in this position who wish to make different arrangements. It gives them more flexibility. The government have not ruled out a wider move on interdependency with respect to the existing defined benefit funds, but we did not make that decision in this budget.

Senator MURRAY—I am not convinced that all members of your government have assessed this fully and completely. You would have, as finance minister, because you know, roughly speaking, what the liability is and you can guess, roughly speaking, what the cash cost is—as can I.

Senator Minchin—Yes.

Senator MURRAY—If the government were to decide post-budget to agree to this matter, it would have very little effect on the surplus as forecast. That is correct, isn't it, with such a low cash cost?

Senator Minchin—Yes, that is correct.

Senator MURRAY—Therefore it would not create much pain financially. There is a financial cost—let's not disguise that—but it would not be painful as a budgetary exercise, would it?

Senator Minchin—No. And I have made the point that our concern is not so much the immediate cash cost—and you are quite right; it would not affect the four-year forward estimates to any great degree—but nevertheless it is quite a big decision for a government to discreetly and unilaterally add to the liability on future taxpayers, who ultimately bear the responsibility for superannuation liability, an amount of \$2 billion. That is not a decision to be taken lightly.

Senator MURRAY—But your government has not shrunk from equity decisions before, and this is basically an equity decision.

Senator Minchin—Yes, but it is one that does impose a significant additional liability for future taxpayers to meet. As I say, I am pleased that we have been able to create the Future Fund with a view to ensuring that future taxpayers will be in a better position to meet this liability, and certainly I have been keen to ensure the government understands the capacity of the Future Fund to meet our liabilities in considering this question, but nevertheless it is a big issue for the government to say that we are going to add to our liability to the tune of \$2 billion in order to do this when we know there will be opposition from some quarters of the community.

Senator MURRAY—I doubt it, personally.

Senator Minchin—It would not be uncontroversial and it is a big decision for the government to make.

Senator MURRAY—Do you honestly think that?

Senator Minchin—We have not ruled it out and, as you well know, there are some within our own ranks who feel strongly about this.

Senator MURRAY—Do you honestly think it would be controversial, because there has already been a principle established, as you know, in a number of funds, to my knowledge completely uncontroversially.

Senator Minchin—It is a defined benefit issue, you see, because they are unfunded.

Senator MURRAY—That is a cost issue, but the issue of providing equity in this area of interdependency and same-sex benefits does exist in other funds and, to my knowledge, has not created any controversy.

Senator Minchin—But this is the only one that taxpayers have to pay for.

Senator MURRAY—So you are suggesting that the controversy would be cash related, in which case the community deserves to know what would be the cost.

Senator Minchin—The \$2 billion figure is out there. They do know.

Senator MURRAY—I mean in terms of an annual budgetary cost.

Senator Minchin—As I have said, I am happy to further consider that. I am happy to concede it would not be great. The issue before the government so far as the cost question is not so much the immediate annual cash cost; it is the fact that the government is being asked to add to the liability on future taxpayers of superannuation to the tune of \$2 billion, which is not something to be taken lightly. In deference to both you and others within our own ranks who feel strongly about this, we have not ruled out the matter. It is still alive. In the meantime, we have made some moves in this budget to give more flexibility to public sector superannuation that takes account of the desire for people to have different arrangements. But I am not yet in a position where I am able to report to you a positive decision on the other front.

Senator MURRAY—Bearing in mind the tenor of this interchange and confirming your sympathetic view, what is the process or possibility of this matter being taken again for a cabinet decision? It does not have to wait until next year's budget, does it? I mean, you can take it forward at any time that you would think so. Or somebody else can. That is true, isn't it? I am not asking you for a commitment.

Senator Minchin—I am not at liberty to go into detail about internal government processes. It would be normal for a decision of this kind to be made in a budget context but it is certainly true that governments can make decisions affecting liabilities or annual appropriations between budgets, and do, yes.

Senator MURRAY—What I looking for is that the door is not slammed until next budget.

Senator Minchin—Not necessarily, no.

Senator MURRAY—Do you have more on this issue, Senator Sherry?

Senator SHERRY—Yes. I understand there was a recent actuarial recalculation of the military fund liabilities, which I will get to, which led to a greater unfunded superannuation liability. That was one of the reasons for there being a greater unfunded superannuation liability calculated for 2019-20. Was the figure of \$2 billion—an approximate figure, obviously—made before or after the recent recalculation of the military superannuation actuarial calculation of new liability?

Ms Campbell—We just need to confirm when the military actuarial reassessment was. The \$2 billion figure is quite a recent figure that we have had updated by actuaries, so I expect it would take it into consideration.

Senator MURRAY—Is the military figure \$8 billion? That is what is in my head.

Ms Campbell—Regarding the \$8 billion that we are talking about, is that the difference in the 2020 unfunded from last budget to this budget?

Senator MURRAY—Yes.

Ms Campbell—That takes into consideration the re-evaluation of military, and the civilian as well?

Mr Culhane—Yes.

Senator SHERRY—Mercers, as I understand it, at least did the initial evaluation of the same-sex couple reversionary benefit; that is correct, isn't it?

Ms Campbell—That is correct.

Senator SHERRY—So, if not them, who was sent a copy of the updated actuarial calculations for the general public sector CSS-PSS military? Were they then sent that new data to recalculate the same-sex couple—

Mr Culhane—If I can just clarify: Finance is responsible for the civilian superannuation schemes and the Department of Defence is responsible for the military ones. At the moment, Mercers is our contracted actuary for the civilian schemes, but the Department of Defence has a different actuary for their schemes.

Senator SHERRY—Do they? Let us put Defence aside for the moment. Going back to my question: were the updated CSS-PSS liabilities sent back to Mercers for updating the initial figure they calculated that we could never get hold of for the unfunded liability increase in the case of same-sex couple reversionary benefit application?

Mr Culhane—I am not quite sure I understand the question.

Ms Campbell—Mercers provided the update on the interdependency relationships and they would have had access to the latest data, which was the 2005 data. We got the interdependency figures from Defence when we were calculating that, and so we are just confirming what data they used in doing that.

Senator SHERRY—In terms of the general public sector liabilities and the revision upwards from \$140 to \$148 billion, that occurred in the last budget papers, didn't it?

Mr Culhane—Yes, the 2007-08 budget papers indicated that.

Senator SHERRY—Why did that revision occur; what were the reasons?

Mr Culhane—The figures in the budget papers were updated for additional experience of an additional year, so in the 2007-08 budget papers we went back to the actuaries and got, if you like, an update on the 2005 long-term cost report to take into account experience in the schemes over the year since the 2005 long-term cost report was prepared.

Senator SHERRY—When you say 'experience in the schemes', you are referring here to the CSS-PSS?

Mr Culhane—Yes, and the military had the same sort of an update done on their schemes.

Senator SHERRY—So what was the approximate breakdown between the CSS-PSS update and the military update that led to this new aggregate increase of \$8 billion approximately?

Mr Culhane—I will have to take that on notice; we do not have those figures here with us.

Senator SHERRY—I am a little surprised you do not, because \$8 billion is a big revision.

Ms Campbell—We will try to get that data for you tonight, Senator.

Senator SHERRY—Thanks. The issue of the indexation of Commonwealth pensions, PSS-CSS and military, has been an issue of public contention—I am sure the minister is aware of regularly receiving submissions and letters on this matter—that is, the change proposed from CPI to MTAWA. Do we have any update on the cash cost of the change and the increase in the liabilities to the fund of such a change? Some figures were provided by Finance, I think, to the Senate select committee on this about three or four years ago.

Mr Culhane—The most recent estimate on the cost to the unfunded liability of changing the indexation arrangements to MTAWA is \$18 billion across the major Australian government schemes.

Senator SHERRY—You said the most recent. When was that estimate derived? Was it this financial year or last financial year?

Mr Culhane—This financial year.

Senator Minchin—2020?

Senator SHERRY—Is that \$18 billion as of today or 2020? It is the same question I referred to earlier.

Ms Campbell—That would be today.

Dr Watt—You immediately incur that liability.

Senator SHERRY—The cash cost?

Mr Culhane—We only have a figure for the civilian schemes. The cash cost would be \$20 million in the first year, \$50 million in the second year and escalating beyond that.

Senator SHERRY—Will it escalate at the same rate? I can understand it will escalate, but that is a significant escalation from year 1 to year 2.

Dr Watt—Remember that between the two indexes there might be a one per cent difference in the first year, two per cent in the second year and then it effectively compounds.

Senator SHERRY—I wonder whether it would compound at the same rate.

Mr Culhane—Provided the two indexes stayed at the same percentage point difference, it should continue to compound at the same rate. What would start to affect you would be changes in the number of beneficiaries. That would not affect you much between year 1 and year 2, but over 10 years the cash cost could rise very significantly and presumably it would fall away.

Senator SHERRY—Presumably it would compound at the rate of claimed loss that the particular individuals have been illustrating on a chart, which is an exponential claimed loss of claimed value over time. Are you able to shed any further light on that?

Ms Campbell—No, we have only the first two years.

Senator SHERRY—What financial year is the \$20 million figure for?

Ms Campbell—I think that is in 2006-07.

Senator SHERRY—Do you know if a figure was done for the military?

Ms Campbell—Of that \$18 billion we talked about, \$6 billion was for the military. We do not have an annual figure for the military.

Senator MURRAY—So the civilian one is \$12 billion?

Ms Campbell—That is correct.

Senator MURRAY—And that translates to a cash cost of \$20 million and \$50 million in year 1 and year 2.

Ms Campbell—That is right.

Senator MURRAY—If I work the \$2 billion back, can I get to the same estimate of a cash cost for that?

Ms Campbell—We do not have the actuarial assessment, but I can understand how you would do that.

Senator MURRAY—That might give me a rough figure?

Ms Campbell—I would have thought so.

Senator SHERRY—We could provide some sort of proportioning rule to get the cash figure.

Ms Campbell—Yes.

Senator Minchin—In that case, the cash cost is an issue. As I said before, it is not so much the issue with the other things.

Senator MURRAY—It seems to me that it is somewhere between \$10 million and \$20 million, depending on the circumstances.

Senator SHERRY—There is an issue around the proportioning rule as it applies to public sector superannuation funds following the 2006 budget changes, since passed into legislation. The issue relates to the treatment of pre-1 July 1999 undeducted contributions. Is the department aware of this issue?

Ms Campbell—We will just check.

Mr Culhane—Could you ask that question again, please?

Senator SHERRY—I intend to give you a further outline of the issue and the concern. After 1 July 2007 it is claimed that, due to the impact of the proportioning rule, the pre 1 July 1999 undeducted contributions are not used up first in assembling the payment; rather, a smaller proportion of the undeducted amount is included in any lump sum payment. Apparently, the claim is that this leads to a higher rate of tax being imposed on the lump sum that is paid. That is the claim.

Ms Campbell—We do not seem to have any knowledge about that at this stage. We will take that on notice.

Senator SHERRY—I expect it would be an issue for ComSuper.

Ms Campbell—Yes, ComSuper may have a better idea.

Senator SHERRY—They may or may not be aware. But I thought that, as it involves a dispute over calculation, the department may have some knowledge or become involved.

Ms Campbell—We do not have any knowledge at this stage.

Senator SHERRY—I will deal with that with ComSuper. There is another issue flowing on from the 2006 budget changes. Are you aware of the issue of the tax treatment of non-super income for public servants at the age of 60, as distinct from the tax treatment of their pension income?

Dr Watt—Yes, we are.

Ms Campbell—Yes.

Senator SHERRY—Has the department of finance been involved in any discussions on this matter with Treasury?

Ms Campbell—We discussed these matters with Treasury when they were developing the legislation for the simplification of the super proposals.

Senator SHERRY—Are you aware of the way in which the differing treatment between public servants at age 60 and non-public servants was calculated?

Ms Campbell—It is the unfunded versus the funded nature of the superannuation funds. These questions would probably be better directed to Treasury, who have responsibility for this policy.

Senator SHERRY—Has Finance been directly involved in any assessment of this issue?

Ms Campbell—Treasury consulted with Finance. Following the announcement, we talked to them about a number of issues that were peculiar to Commonwealth schemes.

Senator SHERRY—You gave me a briefing on reform in the Public Sector Superannuation Scheme and the various elements in that—it is on page 200. Thank you for that. One issue I did not ask about at that briefing is: given the proposed new rules and given that there is a change to expenses and revenue, there would therefore have to have been a conclusion about the approximate number of people who would change their arrangements. Are you able to identify what the approximate number of people who would change their arrangements would be?

Ms Campbell—These are actuarial assumptions that go to costings. They are the best estimates of the actuaries at the time and they take into consideration a number of factors. I am not sure that we normally provide the detail behind those assumptions.

Senator SHERRY—I was a little intrigued—well, ‘intrigued’ is the wrong word, I think, or the wrong description—when we discussed in the private briefing the matter of people opting out of a compulsory contribution or what was previously a compulsory contribution. It just seemed to be a question of why anyone would do it, because prima facie it is to their detriment. But there must have been an assumption that at least some people would do that. I am just interested to know what the numbers would be and why on earth anyone could conclude that they would do so in an actuarial assessment.

Ms Campbell—Without going into the detail of the numbers, we looked at a lot of decision factors. A number of people, for example, in the PSS choose to contribute two per cent. There has been anecdotal evidence to suggest that they would prefer to put their money into another fund and also take advantage of salary sacrifice and the preferential taxation treatment, because, of course, the two per cent they would have been paying would have been post marginal tax rates. So each individual will have their own circumstances. This does provide members, for example, in interdependency relationships with the choice of putting their superannuation contributions into another fund—choosing to leave the PSS and going to another fund and also having not only their own contributions but also the government's contributions.

Senator SHERRY—To a very limited degree, though, in effect.

Ms Campbell—It provides some choice.

Senator SHERRY—Yes, some choice. Who did the actuarial evaluation of this? Was it Mercer again?

Ms Campbell—Mercer did the actuarial evaluation.

Senator MURRAY—They are the usual people you go to, aren't they?

Ms Campbell—We have a contractual arrangement with them at the moment.

Senator SHERRY—Was the Government Actuary consulted at all?

Ms Campbell—Not on this matter, no.

Senator SHERRY—Was the Government Actuary consulted on the previous matters that we were discussing earlier?

Ms Campbell—Because Mercer are doing the actuarial work for us, it is obviously more efficient to use them to expand on these cases because they already have the data. They have done the updated data. This is an iterative process. We were asking for numbers to provide policy advice.

Senator SHERRY—I am sure that you could add an iterative process with the Government Actuary. What are we paying Mercer for this iterative process? What did we pay them this financial year and last financial year?

Ms Campbell—I do not think we have the data. We can go and get the data on how much we paid Mercer. We had a competitive tender process to engage Mercer to provide the actuarial advice to us.

Senator SHERRY—Is it a fixed price contract year on year, regardless of the amount of business you give them, or is it variable?

Mr Culhane—There is a combination of factors. There is a fixed price in relation to certain products like the production of the triennial long-term cost report, but then there is a variable factor for other tasks as requested within certain defined parameters in the contract.

Senator SHERRY—Nonstandard requests?

Mr Culhane—That is right; for example, for costings of particular policies which may or may not arise during any given year.

Senator SHERRY—Are they policies for other departments that may require actuarial input?

Mr Culhane—No, we only contract for our own.

Senator SHERRY—Just Finance. Could you have a look for those figures—the actual amount paid to Mercer in this financial year and going back two financial years? Does this contract have a limited life? Is it up for retender?

Mr Culhane—It is a limited life contract.

Senator SHERRY—Can find out when it is due to expire?

Mr Culhane—It is due to expire at the end of 2007.

Senator SHERRY—The financial year, presumably?

Mr Culhane—On 31 December.

Senator SHERRY—At the end of the calendar year?

Mr Culhane—Yes.

Senator SHERRY—There is a provision for a scoping study of unfunded liability to universities' superannuation arrangements, to examine options for the Commonwealth to manage its share of universities' unfunded superannuation liability. What is meant by 'managing its share of universities' unfunded superannuation liability'?

Ms Campbell—Currently the Australian government recognises in its books a share of the unfunded superannuation liabilities for universities. Money has been provided to the study to look at some of the best ways to manage that, to determine its magnitude and how it is growing in the future—options for the continued management of liability. It is not dissimilar to how we manage or other liabilities in regards to superannuation.

Senator MURRAY—Who has the other share?

Ms Campbell—The states.

Senator SHERRY—It has its origins in the old PSS-CSS type equivalent fund doesn't it?

Ms Campbell—I do not believe so.

Senator SHERRY—It is a defined benefit, though, that we are talking about. There is a legacy that universities have committed to pay.

Ms Campbell—At the current arrangements, the Department of Education, Science and Training has responsibility for the liability. We are going to work with them to determine the strategies for managing it moving forward.

Senator SHERRY—Does the department have a calculation of the total unfunded liability?

Ms Campbell—It does. For the Commonwealth's share?

Senator SHERRY—The total and obviously the Commonwealth's share.

Ms Campbell—Yes, we do. We need to get that out of—

Mr Culhane—The Commonwealth share is in the order of \$2.7 billion or \$2.8 billion.

Senator SHERRY—Is that at the present time?

Mr Culhane—Yes.

Senator SHERRY—Have you done a projection through to 2019-20?

Ms Campbell—No, Senator. That is one of the reasons for the study: to determine some of the options.

Dr Watt—Senator, you might remember that three or four years ago we did a scoping study on the Commonwealth's outstanding liability under the Telstra and Post superannuation schemes.

Senator SHERRY—Yes.

Dr Watt—As a result of that scoping study the government concluded that the best way to deal with those liabilities was to pay them out, and we did. Whether this will produce the same outcomes is another matter, but it is looking at all the options in relation to managing them in future.

Senator SHERRY—When is that scoping study going to be completed?

Dr Watt—It will come back to the budget process in 2008-09.

Senator SHERRY—Is this being tendered to an organisation outside the department?

Dr Watt—First of all, it will involve a number of people inside the department and people from the Department of Education, Science and Training. Secondly, there will be some external actuarial and legal work that we will probably need.

Senator SHERRY—I am sure ComSuper can provide me with some information when we get to them but I note that they have been provided an allocation of \$46.3 million over four years to modernise their IT systems for administration. It is described as:

... effectively administer Australian Government schemes and meet the requirements of regulators.

Given the earlier discussion we had about depreciation, why is it necessary for ComSuper to receive an allocation outside their depreciation for this purpose?

Ms Campbell—The allocation as recorded on page 196 is because they have used the depreciation funding, and this is what is required on top of that.

Senator SHERRY—Yes, but why is it required on top? Presumably they have not been putting aside, or the depreciation schedule for what they currently have is not sufficient for the purpose; hence the special allocation.

Ms Campbell—In part, I understand that ComSuper—and they will be in a better position to answer this question—have used some of their depreciation funding in the past to upgrade their current system. It still requires further upgrading. The depreciation funding will have been provided on the value of the system some time ago and replacing the system is likely to cost significantly more than replacing the system that would have been acquired or developed some years ago.

Dr Watt—Even for items which were fully depreciated. As Ms Campbell says, some of the depreciation funding has been used to effectively upgrade the system as they have gone. Even

under those circumstances, with a much more expensive system, you will not have all the depreciation funding that you need.

Senator MURRAY—Is this because you are funding depreciation at a historical cost, not replacement cost?

Dr Watt—Yes. You never replace like with like with IT systems, you replace like with better.

Senator MURRAY—Of course.

Senator SHERRY—From the department of finance's perspective, ComSuper has also to receive \$6 million over two years as a consequence of the government's simpler superannuation reforms. Why was that not identified in the requirements last year in last year's budget in the general administration for the implementation of simpler superannuation?

Ms Campbell—In last year's budget there was still work to be done on the simplification such as the implementation costs. This is ComSuper coming back following consideration of what was necessary to do, and the money is being provided for them in that context.

Senator SHERRY—Why was it not done last year?

Ms Campbell—I think the announcement last year said that there would be a further call on the budget for the administration costs and they would come back.

Senator SHERRY—When the final announcement was made—I forget the date, October or November some time—there was a specific allocation there for administration.

Ms Campbell—I understand that was for the Australian Taxation Office.

Senator SHERRY—That is right. They came back for another bite I notice, and not an insignificant amount. I will ask ComSuper why they could not provide that figure in the October-November announcement. Since then, the ATO have come back—I do not have the figures in front of me—\$70 million or \$80 million over and above what they were allocated when the final announcement was made in October-November, which was a very significant figure anyway. Have you scrutinised that?

Dr Grimes—That is a measure in the budget papers. Actually, the measure you are referring to is on page 307 of Budget Paper No. 2. As a budget measure and an expense measure, we obviously scrutinised that figure and provided advice on it.

Senator SHERRY—I forget from memory what the figure was, but you have it in front of you, Dr Grimes.

Dr Grimes—It is on page 307. As you suggested, the figures are \$40.5 million in 2007-08 and \$38 million in 2008-09.

Senator SHERRY—I will obviously go to the ATO. It begs the question why that was not included in last year's October announcement. Would finance have scrutinised this request?

Dr Grimes—You would probably have to refer those questions further to Treasury or the ATO for further information. We would be able to take something on notice, but it is probably best referring it to them directly.

Senator SHERRY—I just wanted some assurance that you had actually examined this request for a further approximately \$80 million on top of the hundreds of millions they got last year.

Dr Grimes—Indeed. We did examine this request. We provided advice on that request.

Senator SHERRY—I will go to them as to the reason. With respect to judges' superannuation: there was a line item for an additional amount for the purposes of surcharge payment.

Dr Watt—That would be the Attorney-General's Department.

Senator SHERRY—Did the department of finance scrutinise that?

Dr Watt—It was a minor new policy proposal. Yes, it went through the ERC process. We scrutinised it.

Senator SHERRY—Is it in Attorney-General's? I thought it was in Treasury.

Dr Watt—No, it is in Attorney-General's.

Senator SHERRY—Can you tell me what the purpose of judges getting additional funding from government to pay part of their surcharge liabilities is based on?

Dr Watt—I think you had better ask Attorney-General's that too, we are not as knowledgeable as we thought we might be.

Senator SHERRY—I accept it is a modest amount of money.

Dr Watt—You know that the surcharge on judges' pensions has been a long issue.

Senator SHERRY—Yes. It has been a long issue for a lot of people. I just wondered why judges got a particular allocation.

Dr Watt—I think the answer lies in that thing that has always been an issue—the division between the executive and the judiciary—but if I said any more, I would run the risk of saying something incorrect.

Senator SHERRY—I think the issue was whether judges should have been paying the surcharge full stop.

Dr Watt—That is right.

Senator SHERRY—It just puzzled me as to why. They have now got a modest amount of money in the scheme of things, but why particularly judges and no-one else.

Dr Grimes—There is a reference to this in Budget Paper No. 2. To go into detail, we would probably be better to refer it to the relevant agency, but I will make the point that the measures' description at the bottom of page 88 in Budget Paper No. 2 states:

This measure will ensure that relevant federal judges meet their superannuation obligations through a reduced pension benefit, instead of a lump sum payment when they retire.

Ms Campbell—And that is not dissimilar to other Commonwealth schemes in which people can reduce their pensions to pay off the surcharge debt. I am not sure that is available.

Senator SHERRY—Yes. You have the option of either having a reduced pension or paying the accrued debt.

Ms Campbell—Beforehand, yes.

Senator SHERRY—I might go to Treasury; they might be able to throw some light on the rationale.

Ms Campbell—Attorney-General's.

Dr Watt—Treasury will send you to the Attorney-General's Department.

Senator MURRAY—It sounds like you want to have nothing to do with it!

Dr Watt—We have enough tension headaches!

Senator MURRAY—A couple of issues have come to my attention. The first one, possibly Senator Sherry was interested in, as well, and that is a report by Mark Davis dated 15 May in the *SMH*, which is headed 'Airport lands Canberra a surprise \$400 million tax bill.' He said:

More than four years after selling Sydney Airport to a Macquarie Bank-led consortium for \$5.6 billion, the Federal Government is facing a surprise \$401.5 million tax bill from the transaction.

This comes from a stamp duty assessment which I understand the Commonwealth is contesting.

Dr Watt—The first point to make is that it is not a surprise in the sense of being unknown. We have been aware for some time that this is a possibility, and we have been showing it in the statement of risks. I will pass this over to Mr Lewis to deal with.

Senator MURRAY—That was the first question: is it in the statement of risks, and your answer is yes, is it?

Dr Watt—I think it has been.

Mr Lewis—We will check that, but I believe it is. I will get one of my colleagues up to confirm that point. I am pretty sure that is the case. By way of background, on 17 November last year, more than four years after the sale of Sydney airport, the New South Wales Office of State Revenue issued an assessment for net stamp duty payable at the land rich rate of \$258.9 million plus interest of \$142 million, totalling \$401 million. The government intends to vigorously resist the assessment. On 11 January 2007 they lodged an objection to it and also requested the New South Wales Chief Minister of Revenue to exercise his discretion under section 119(3) of the New South Wales Duties Act 1997 to determine that it was not just and reasonable to impose land rich duty in respect of the sale of Sydney airport.

Senator MURRAY—That is pretty much what the article said. I do not know what the source is—it is not quoted—but the article also said:

Canberra indemnified the Macquarie consortium because it believed there was only a remote risk that stamp duty would be levied at the land rich rate.

I cannot imagine the Commonwealth doing any such thing. You would not have indemnified them because you thought it was a remote risk; you would have indemnified them, I assume, because you thought an indemnity was appropriate in the transaction. Is that right? He is imputing a motive here for the indemnification, which strikes me as unusual.

Mr Lewis—On the basis of the information available at the time of the sale, the government considered the risk of the land rich rate applying was remote—

Senator MURRAY—That is not why you gave the indemnity.

Mr Lewis—and, accordingly, indemnified the purchaser against that risk. The issue for the individuals managing the sale was that we needed to create certainty in relation to the transaction. Of course, in the absence of that certainty, they would have priced that risk into their bids. Because you have a number of tenderers, that was made clear to all of the tenderers. So all the parties tendering for that sale were bidding on the basis of indemnification against that risk.

Senator MURRAY—I do not know what other indemnities might be triggered with respect to that sale but a \$401.5 million tax bill is a high percentage of the sale price.

Mr Lewis—It will be very significant. The first point is that bidders are not in a good position to assess that risk. The second point is that bidders may have assessed that risk differentially. The issue is where best should that risk be managed. You need to recall that, in relation to that matter, we had received letters from the Office of State Revenue advising that land rich duty would not apply.

Senator MURRAY—Might not or would not?

Mr Lewis—Would not. It was subsequently retracted. I am calling on my memory of those days. The sale transaction was suspended for a number of months after 9/11. The Office of State Revenue letter came in prior to 9/11.

Mr Butterworth—I can give you the precise dates, if that is of help. We had a letter of relief from OSR in August 2001. In September 2001 the sale lapsed because of the events of 9/11. In April 2002 the sale recommenced. At that point, OSR were approached but declined to renew their letter of comfort.

Senator MURRAY—So you at least recognise that there was a remote risk. With regard to normal commercial negotiating practice in a situation where you want to give bidders certainty but there is a risk—and you would have been able to compute it because you know the stamp duty rate, so you would have known what the risk was—the normal approach would be to cap the risk to the bidder. You would say to them that if stamp duty was going to be levied it would be a maximum of such and such so they know it. They then, of course, price it into their price. But the effect of this is that your price should have been discounted—that you were actually realising 5.2 with a risk of 400-odd.

Mr Lewis—First, we do not have the outcome of the process. Second, land rich is just an arithmetic calculation, as you suggest, and what is moving is the interest payable the longer that it is not paid. That is the only variable here.

Dr Watt—The issue is land rich. All the advice we had was that the transaction was not land rich, but we did not have a definitive response from the Office of State Revenue.

Senator MURRAY—I hope you win this battle. As you know, I have a very high opinion of the department and its officers. I must say to you that I do not feel you have been prudent enough in such a matter in having an open-ended indemnity of this kind. A remote risk means that you recognise that there was a risk and you knew what that risk was without the interest charge. I understand your point.

Mr Lewis—Until this letter was received from the Office of State Revenue, more than four years after the sale, I think that was a fair conclusion to have formed in relation to the remoteness of the risk. The amount can be calculated but the remoteness depends very much on assessments of whether it is land rich. We had acted on a basis of prior written communications from the Office of State Revenue and confirmed by subsequent valuations, and an alternative view was formed more than four years after the sale. As I said, we are now contesting that.

Senator MURRAY—Explain the legal process. You have indicated this is a discretionary power which they may or may not grant. Let us assume it is negative. Are you then able to take it to court?

Mr Heazlett—Yes. We are able to take it to the Supreme Court in New South Wales to seek to have the assessment voided.

Senator MURRAY—So we are only in the early stages of the process?

Mr Heazlett—We have not got to that stage yet. We have lodged a formal obligation.

Senator MURRAY—I wish strength to your arms.

Mr Heazlett—Thank you.

Mr Butterworth—The government intends to vigorously contest this. You mentioned the statements of risk. To give you an example: in last year's budget, 2006-07, we carried this in the statement of risks on page 11.9, and that highlighted the indemnity. I think we carried it for a while before then.

Mr Heazlett—It has been in each budget since the May 2003 budget.

Senator MURRAY—I want to address a second issue briefly—because I do not want to revisit the rationale behind it. It is the issue of how this is to proceed. The Senate Finance and Public Administration Committee produced a recent report which had a recommendation that was accepted by the President of the Senate. In summary, it recommended that, in terms of the compact between the House and Senate, if any matter to do with appropriation bills raises some concerns about the wrong items being in the wrong bills or those sorts of issues, the Clerk would so advise the President and the President on behalf of the Senate would raise it with the government. That matter would be with the Minister for Finance and Administration for appropriation bills. Appropriation bills lie around a little and they can suddenly come before us and, generally speaking, debate is constrained, though not always. Are you equipped to respond rapidly to expressions of concern by the Senate to adjust bills accordingly if, for instance, it merely requires that a matter be moved from appropriation 1 to appropriation 2?

Senator Minchin—In the last few days, I have written back to the President of the Senate on this very matter suggesting a way forward. I would be happy for any officers at the table to speak further about what we have actually proposed.

Senator MURRAY—I am happy to hear from them. Without presuming to speak for the committee, the committee was at pains to find a non-partisan way of dealing with what is fundamentally an issue of process, probity and integrity between the government and the Senate. That is the essence of it. I am now concerned that it will happen in way so that

senators dealing with appropriation bills are advised early enough (a) if there is a problem and (b) how it will be fixed.

Ms Campbell—Mr Loudon will go through what the correspondence clarified and how the minister and the government consider the compact operates. He will talk through that to start with.

Mr Loudon—The approach that the minister has provided to the President of the Senate revolves around providing a single document which clarifies the understanding of the government of the compact. As you know, the compact of 1965 has evolved over the years and, through some correspondence and meetings, has been developed, but there has not been a single document. The minister's approach has been, on behalf of the government, to submit to the President of the Senate, a document that summarises it as the government believes it is at this moment. That goes through what ordinary annual services are as well as what goes into bill 2. It also provides an additional piece of paper that looks at what are really the two major areas in relation to the original compact and the major change in 1999 and then what we believe to be the current position.

Senator MURRAY—As you know, to crudely summarise it, the broad intent of the Senate is to keep moneys which are appropriated from the ordinary annual services of government in one pack—and, pretty well, that can sweep through easily—and the other is new project money which deserves greater scrutiny. That is crudely the difference. Will your suggested letter—I have not seen it and I do not think it is proper for me to ask for it until the President has had a chance to look at it—deal with those issues, or does it deal with those issues?

Ms Campbell—It clarifies.

Senator Minchin—That is what it does by way of the attachment, which is the suggested bringing together in one document of the basis on which expenditures are divided between the bills. I think we have suggested a discussion or a process of negotiation so that we do get consensus on this. We are putting this up as a discussion document so that officials between the Senate and Finance can then seek to resolve any concerns that the Senate officials, or the President, on behalf of the Senate, may have, with a view to reaching agreement. I do not like there to be this difference; I want to resolve it. In a sense, this is by way of initiating a process to reach a final conclusion.

Senator MURRAY—Minister, apart from the fact that this is the ideal opportunity, one of the reasons I wanted to raise it today is that we have appropriation bills coming up in June. Is it your view that this process of resolution could come to a conclusion in time for those appropriation bills to be dealt with?

Senator Minchin—It is really in the hands of the Senate. I think what we have put up is—

Senator MURRAY—But you are very experienced; you would have a feeling for these matters.

Ms Campbell—The way the money is currently in bills 1, 2, 5 and 6, is the way it is reflected in the correspondence that Senator Minchin has sent to the President of the Senate. The current allocation in the bills as they stand is what we have put forward in this document.

Senator MURRAY—I suspect it will be much harder in practice—because separating out stuff is never easy—but, in theory, some items, certainly not all, could easily be relocated from one bill to another. It is where you need to disaggregate items in terms of new projects versus ordinary annual services that you might have difficulties. Is that an accurate summation of the problems that you face?

Ms Campbell—I think Finance has a clear understanding of where we consider the moneys should go in which of the bills, and that is promulgated to agencies in putting the money in the bills. The President of the Senate has indicated that there may not be that shared understanding. What we are trying to do work through a shared understanding.

Senator Minchin—Are you surmising in relation to the June discussion or debate of these bills that, if there is a dispute, as to whether we open to persuasion that items could be moved? I suppose so in theory, but I think you allude to the difficulties of that.

Senator MURRAY—Yes.

Senator Minchin—I would hope that there would not be a dispute.

Senator MURRAY—The theory is that the Senate would hold up the bills, but practically that is a very unattractive proposition. Why would you want to do that, particularly where ordinary annual services are involved, or where new projects have the full support of the political parties that are in the parliament, which happens for most of them? I would hope, in a mechanical sense, the department is working at ways to deal with that issue, and not just digging in its heels.

Senator Minchin—I have been anxious to ensure that the department do take seriously the points raised by the Senate and accommodate them as responsibly as we think we can. It may not be possible to reach absolute agreement, but I hope we can get as close as possible.

Senator MURRAY—If I may suggest, as my last point on this matter, a willingness to shift some items, which are easily shifted from one to the other, might be a sign of goodwill.

Senator Minchin—I note what you say, Senator Murray.

Senator NETTLE—I have some questions in relation to public sector superannuation.

Senator Minchin—Excuse me, Senator, were you present for Senator Sherry's line of questioning?

Senator NETTLE—I did hear, yes.

Senator Minchin—It is not covering the same ground.

Senator NETTLE—No, I do not think so. I was not listening to every word. I would like to ask about same-sex couples' access to public sector superannuation. Senator Minchin, you mentioned, in answer to a question from Senator Murray the figure of \$2 billion for the unfunded superannuation liabilities in relation to same-sex couples. Where did that figure come from?

Senator Minchin—With respect, Senator Nettle, we did cover a lot of this material about an hour or so ago with Senator Murray and Senator Sherry, but I am happy to repeat as concisely as we can our previous answers.

Ms Campbell—We requested our actuaries at Mercer to do the calculations for the civilian superannuation schemes to give us indicative numbers. We also consulted with the Department of Defence on the military schemes to give indicative numbers on what the likely impact of recognition of interdependent relationships were. The actuaries made assumptions about the size of the population who would be affected, and that is where we got our data.

Senator NETTLE—What was the assumption the actuaries made about the size?

Ms Campbell—We have not actually gone into the detail of the assumptions that underpin that.

Senator NETTLE—Is there a problem with doing that?

Ms Campbell—We generally do not go into the detail on the assumptions because they go to the policy advice we have provided to government. Rather than having a debate about some of the assumptions, we do not usually go into that detail.

Senator NETTLE—I will ask more specifically. Presumably there was an assumption as a part of that about the proportion of the population to whom this would relate. Can you tell me what that figure was—the proportion of the population that would be covered by this?

Ms Campbell—That generally goes to the assumptions on which we provide policy advice to government. We do not generally disclose that proportion.

Senator NETTLE—If it is the proportion of people in the community who are in same-sex relationships, which is hardly private information.

Ms Campbell—It is the proportion that we did on interdependent relationships. We asked the actuaries for that advice. Senator Minchin earlier mentioned that, because the matter was still under review, we do not generally go into details on the assumptions on policy advice provided to government.

Senator NETTLE—So the calculation was based on interdependent and same sex?

Ms Campbell—Same sex being a subset of interdependent.

Senator NETTLE—Can you give us an indication of what proportion of the overall figure that you are looking at was for same sex?

Ms Campbell—That goes still into the assumptions and the advice we are providing to government. As this matter is still under review, that goes into that advice we are providing to government.

Senator NETTLE—I do not want all of the detail about that kind of advice, I want a sense of it. Are we talking fifty-fifty; are we talking 5 per cent?

Ms Campbell—Approximately half of the cost relates to same sex and half relates to non-same-sex interdependence.

Senator NETTLE—Do you do this kind of costing retrospectively or prospectively?

Ms Campbell—It is prospectively. It would not be going backwards. This costing reflects recognition now. Particularly for members who have died, their partner is being recognised for what is known as a reversionary pension.

Senator NETTLE—Sometimes, with the way the figure of \$2 billion is used, it is as though that relates to only same-sex couples.

Senator Minchin—I apologise if I have given that impression. I try to talk about it in terms of interdependency. I accept your—

Senator NETTLE—I was not saying it was you; I was talking more about how it is often reported as \$2 billion for same-sex. So it is useful to understand that the \$1 billion figure that you are talking about relates to same-sex couples.

Senator Minchin—That is why I was happy for Kathryn to put the breakdown on the record. If we were going to move on this, we could not do it for just same-sex couples.

Senator NETTLE—That is fine; I understand that. I am just trying to get a sense of it. Over how many years is that costing?

Ms Campbell—The costing reflects what the increase in the unfunded liability would be at 2010-11. So, at that point in time, it would add \$2 billion to that cost.

Senator NETTLE—Was that the figure for civilian or military?

Ms Campbell—It is for both; for all Commonwealth schemes.

CHAIR—Senator Moore has some questions for outcome 4. We will come back to outcome 1 after the dinner break.

Senator MOORE—I want to get some information about the Australian government online service point.

Dr Watt—I think we can give you that.

Senator MOORE—Good. We have the media release and also the page from the PBS which indicates the expenditure of \$42.4 million in total. Some of that has been allocated to capital costs. Could I get some idea of the breakdown?

Ms Steward—In terms of capital costs for the project, it is around \$16.2 million—

Senator MOORE—Over two financial years?

Ms Steward—Over 2007-08 to 2008-09. The operating expenses are at about \$16.3 million.

Senator MOORE—I was just trying to see whether you could give me any more information about how that is broken down. I would imagine, with my limited knowledge, that the capital cost for the kind of hardware—

Ms Steward—That is correct. The capital costs would relate to hardware and software that would be required to support the enhancements to enable the extended facilities under australia.gov.au.

Senator MOORE—Is that being specially developed?

Ms Steward—This will require new development activity, and we will be going to market not only to look at particular products but also to assist in the design.

Senator MOORE—So, in effect, the whole project will be outsourced?

Ms Steward—No, not the whole project. We will go to market to look at service providers who will be able to assist us in the development. We will have some work that we will be able to undertake within the department, but it will be a combination of using our own resources as well as going to service providers.

Senator MOORE—What do the other expenditures—the \$8 million, \$8.4 million and \$4.9 million—include? What kinds of things do they include? Apart from what you have already identified, what do they cover? For instance, in the 2007-08 financial year there is an allocation of \$8 million to the Department of Finance and Administration. What does that cover?

Ms Steward—In terms of operating expenses, that allocation will primarily go to staff who will be engaged in preparing specifications as we go out to market. It will also be used for the work that we will be doing with other departments and agencies in readiness for the implementation of the new features. In addition, it will be used for an insurance partner that will assist us in the development of the project and for project management capabilities that we will need within the office.

Senator MOORE—How many staff are in that unit for this particular project at the moment?

Ms Steward—We will require around nine additional staff for this initiative.

Senator MOORE—Are they new staff?

Ms Steward—They are new staff that will be allocated to the project. Plus, obviously, we will look to supplement that with contract resources where appropriate.

Senator MOORE—When will those staff commence?

Ms Steward—Progressively. Currently we have some bridging staff from our existing environment who are supporting the readying into the new programs. Once funding is available we will start recruiting. We have recruitment action underway now.

Senator MOORE—Are there ads currently out?

Ms Steward—There are ads out for resources for this particular project.

Senator MOORE—Can we put on notice, rather than go through it now, what staff you are looking at recruiting, the project plan you have for your staffing and what levels and how many—that kind of thing? We will just put that on notice.

Ms Steward—Certainly; we are happy to take that on notice.

Senator MOORE—Can you give us a brief description of the service that is intended for this particular online site?

Ms Steward—Yes, I am happy to. Some of the functions that we will be looking to implement through an enhanced entry point will be opportunities for individuals to be able to have a single point of entry into government and, through that, to be able to advise their particular details as they register—such as their name and address—to be authenticated at that point and then to be able to clearly navigate through a range of other online services across government. Other features we are looking to implement include a directory service, so that we have a much more comprehensive view at that one entry point about the online services

that are available, and a change-of-address functionality, so that citizens can advise a change of address and whether they would like that passed on to other agencies. So there will be a range of very carefully managed new functions.

Senator MOORE—How many agencies does it cover? The media release does not specify which agencies. If I am a user and I key in, does it cover every single Australian government agency, or are there some that you cannot access that way?

Ms Steward—Our aim would be to be able to gain access to the range of government agencies through that one entry point. Obviously we will work with a number in the first rollout to be able to gain access and look to utilising existing investment that is there, particularly in areas like the Department of Human Services or extending into what the Australian Taxation Office already has in place.

Senator MOORE—I anticipate yet another long discussion about IT with Human Services this time tomorrow. In terms of the process, it is one of the ones that people use most: keying in a change of address and information exchange. Is it anticipated that this particular project would cover that—as a user wanting to access information about their Centrelink payments?

Ms Steward—No, it will not cover that in terms of individual departments. It will enable you to go through the entry point to the various departments that you want to be able to have the normal dealings that you have with that agency. They would continue to be able to work directly with Centrelink but, more particularly, if they wanted to gain access to a wider range of other services, they would be able to move through that environment, where they have already authenticated their details at the entry point, to a range of other agencies, rather than coming all the way back out and then re-entering.

Senator MOORE—Can you provide us with a list, again on notice, about what agencies would be able to be accessed in this way—for example, Immigration, passports, Centrelink, Tax, or people wanting to go in and find out about quarantine laws through the Department of Primary Industries? I just want to know what routes you can use through this enhanced process. Can I get that on notice?

Ms Steward—Certainly. We would envisage that there would be access to a range of government agencies.

Senator MOORE—Who are currently online?

Ms Steward—Yes, that is correct.

Senator MOORE—So if there was an agency that did not already have an e-service, this service would not provide that for them.

Ms Steward—No. I will take that on notice in order to be able to provide you with further detail but, yes, it would be difficult to make an access point to them if they were not online.

Senator MOORE—The money that is allocated here does not enhance e-services for other departments.

Ms Steward—That is correct. It is not around providing funds out to their own. Obviously, though, they would gain benefit from the work under the access point in its own right and it

would obviously give visibility to the range of services that they had or they would be able to offer integrated services for the individuals.

Senator MOORE—So it is like a better gateway.

Ms Steward—Yes, it is an enhanced gateway, secure and fully functioning to comply with all privacy and legislative requirements.

Senator MOORE—Is there an interdepartmental working party or a like group that has been formed to make this work?

Ms Steward—As we were developing the concept and the proposal, we had an interdepartmental committee as a governance process for us. We will continue to have a similar range of agencies involved as we go forward in the development, including those who will obviously be able to gain access to the functionality.

Senator MOORE—Is that the form of consultation that has occurred across the service—that form of working group? Is that the method of consultation that makes this happen?

Ms Steward—That is one of the methods that we will use and then obviously we will have broader stakeholder engagement with a range of other agencies. Not all agencies will be a part of that program management activity but we will have a broad range of stakeholder engagement with other agencies.

Senator MOORE—And that is formulated in the cost?

Ms Steward—That is part of what we would do under our program management for the initiative.

Senator MOORE—And that will be part of the \$8 million?

Ms Steward—That is correct.

Senator MOORE—Has there been any consideration of the impact on other agencies and on the public sector of the introduction of this service?

Ms Steward—In what terms?

Senator MOORE—Generally. Is there likely to be any impact on workload or a requirement for people to operate differently in a place like Immigration if this particular access were available?

Ms Steward—As our proposal was being developed, we worked with those agencies—an example is Immigration—to understand what they would need to do or how we would be able to interact with them, and we will continue to do that.

Senator MOORE—In terms of savings, I notice that there is no savings line underneath this particular one in the PBS. Has there been any consideration of whether this particular process will actually reap savings?

Ms Steward—We expect that in providing the new functionality there will be opportunities for agencies to extend their services through that but we have not looked to recoup. We looked at this as an investment for government to be able to provide a broader and a richer range of services online to meet users' needs.

Senator MOORE—In terms of the review process—I know it is very early in the process—with your rollout across the four years, has there been a review mechanism determined yet about exactly how it will be assessed and by whom?

Ms Steward—Yes. We are subject to the gateway review process that has been initiated for major ICT projects and we are already underway with that—through the first gate process.

Senator MOORE—So you are one of the programs that will be assessed with the pre-existing method. There is nothing new.

Ms Steward—That is correct.

Senator MOORE—The ownership of this particular process is with your department. Are you the lead agency?

Ms Steward—That is correct.

Senator MOORE—And you lead up the working party? Not you personally but your agency.

Ms Steward—That is correct.

Senator MOORE—If we could just get that information on notice about staffing and also the agencies that are included, that would be fine.

Ms Steward—I am happy to do it.

Proceedings suspended from 6.24 pm to 7.31 pm

CHAIR—We will now turn to outcome 1. Senator Sherry has some questions.

Dr Watt—We have a few questions we can answer for you.

Senator SHERRY—I am all ears, then.

Dr Watt—You asked about some questions you had asked the minister in the Senate on 18 April. The efficiency dividend ones are well advanced. We are late; we apologise. We expect to have them in a couple of weeks.

Senator SHERRY—That is from the departmental level.

Dr Watt—Yes.

Senator SHERRY—It is then to the minister's office.

Dr Watt—I do not think the minister will have any great problem with them but I cannot say that for sure.

Senator SHERRY—I have to say that the minister for finance has a better record in transmitting responses than the Treasurer's office.

Senator Minchin—Thank you for that.

Senator SHERRY—Significantly better.

Senator Minchin—He is much busier than I am, no doubt.

Senator SHERRY—I am sure.

Mr Culhane—I have an answer to one of the questions you asked earlier. You asked about the cost of our contract with Mercers for actuarial services on superannuation issues. In 2004-05 we had expenses of around \$300,000, in 2005-06 we had expenses of around \$450,000 and in 2006-07 it was around \$600,000.

Senator SHERRY—Thanks for that.

Mr Culhane—There was another question. Senator Murray asked about the difference between a figure of around \$140 billion unfunded liability in the 2006-07 budget papers and a figure of \$148 billion in unfunded liability in the 2007-08 budget figures. He asked about the proportion that related to the military super schemes versus the civilian super schemes. Around \$6 billion of the \$8 billion difference relates to the military schemes.

Senator SHERRY—Is the military actuarial assessment available? Do we go to Defence for that?

Mr Culhane—I understand it is available from the Department of Defence, yes. The details should be in that actuarial report.

Mr Ignatius—You also asked about finance interaction with FaCSIA on the Indigenous land account and the methodology for calculating the realised real return. The realised real return is the amount that is paid to the Indigenous Land Corporation. The calculation of that was reviewed at the request of FaCSIA, and they engaged the independent accounting firm to undertake that review of the methodology. Our discussions with FaCSIA were around requesting confirmation that, in the context of the estimates update for the forward estimates, that calculation had been done in accordance with that methodology, and FaCSIA obtained that accounting firm's confirmation that they were in accordance with that methodology. Those estimates were agreed between Finance, FaCSIA and the ILC.

Senator SHERRY—I have one final question on the public sector super advice before we move to ComSuper and ARIA. Following on from the discussion we had about the change to the Public Service schemes, does that impact on the Future Fund liability?

Ms Campbell—On the unfunded liability?

Senator SHERRY—Yes.

Ms Campbell—Yes, it does impact.

Senator SHERRY—Was that taken into account? Looking at the timing issue here, you have the announced changes to the public sector super. Would that have been included in the updated 140 to 148 liability?

Ms Campbell—No, but the increase is not significant enough to make a difference on that figure.

Dr Watt—It is in the hundreds.

Ms Campbell—Yes, in the hundreds of millions.

Dr Watt—And small hundreds, I think, from memory.

CHAIR—We will call ComSuper forward and we will go back to outcome 1.

[7.37 pm]

Senator SHERRY—I have just a couple of questions, Mr Gibbs. I have not yet had a chance to ask you, but last year's annual report was late. I think the reason given was that there was a difficulty obtaining or employing a chief financial officer.

Mr Gibbs—Yes, that was one of the reasons. We had a changeover of the chief financial officer position just before the end of the financial year and we were in trouble recruiting one, so we had to employ somebody on a short-term contract. There were some other minor reasons as well.

Senator SHERRY—Is there now a recruited chief financial officer?

Mr Gibbs—Yes, there is.

Senator SHERRY—Would the difficulties in recruitment have anything to do with salaries in the private sector in this area at the moment?

Mr Gibbs—As you would appreciate, it is a very tight market all round, not only in this city but in other cities as well.

Senator SHERRY—For the record, who is your custodian?

Mr Gibbs—Our custodian is JP Morgan.

Senator SHERRY—I know Senator Brown has some questions, but I have a couple of other questions for ComSuper. I touched on this earlier. There is an \$46.3 million allocation in the budget for IT, which is obviously over and above your normal depreciation. It says 'modernise IT systems', but why was there not sufficient in the depreciation of your IT to cover this?

Ms Crosby—Over a number of years, ComSuper has provided for depreciation and has used that depreciation to upgrade and make enhancements to our IT systems. That amount of depreciation is modest. As you might appreciate, the complete replacement of our ageing systems for what are relatively complex defined benefit schemes is quite costly, and the amount of money that we had set aside for depreciation was insufficient for us to fund the entire amount. We have and will be using our small amount of depreciation funding to contribute to the modernisation project.

Senator SHERRY—I hope we are not here in estimates in 10 years time asking questions about this—in fact, I am sure I will not be, and it will not be because we may or may not be in government; I think I will be long gone. Once this modernisation program commences, will the depreciation schedule be adjusted to try and ensure this does not happen again?

Ms Crosby—Yes, absolutely. That has been part of our discussions with the department of finance, ensuring that we have appropriate costing models to cater for depreciation and replenishment of our systems going forward.

Senator SHERRY—Regarding the contracts for the provision of the IT upgrade, what is happening in terms of timing?

Ms Crosby—We are in preliminary discussions on the requirements in terms of the systems. We will be going out to the market in order to obtain the services of a provider to

assist us in the replenishment of the systems. We would expect to be out to the market on that a little later in the year.

Senator SHERRY—When you say ‘a little later in the year’—

Ms Crosby—I think we will be going out around July in the first instance. As you would appreciate, it is going to be a relatively complex project, so I think there will be a number of approaches to the market.

Senator SHERRY—Will there be a number of contracts and a commitment through to 2010-11? What will be the breakdown?

Ms Crosby—I think it is a little early to say on that. We are still working through the high-level requirements. We have a number of experts helping us with that. Once we understand what the requirements are, we will determine what the appropriate approach to the market is. We have engaged a contracting procurement specialist to assist us with that.

Senator SHERRY—As I am sure you would appreciate, all superannuation administration funds out there at the present time are trying to update their IT for other reasons. It is probably the worst possible time.

Ms Crosby—Perhaps. Once we understand our requirements we will go out to the market, and from there we will look for a value-for-money service provider.

Senator SHERRY—The other allocation was for updating as a consequence of simpler superannuation reforms. That is obviously in this year’s budget. Why were you not able to identify the need for this update earlier? Why now?

Ms Crosby—When the initial government announcement was made with respect to the simplification of super—it is a high-level policy—we were unable to determine an accurate amount in respect of the changes required to our systems to support the policy. Once further information was made available, we were able to determine what the amount was to update our systems and processes. We put a submission through to the department of finance once that information was available.

Senator SHERRY—I want to move to another issue. I touched on this with the department. Are you aware of the issue of the treatment of non-superannuation, taxed income for a retired public servant at age 60 versus non-superannuation income for a non-public-servant at age 60? Are you aware of that issue?

Mr Markovic—I am not aware of the issue that you specifically refer to.

Senator SHERRY—Okay. Another issue that has been raised with us is what is known as the proportioning rule, about which I posed a question earlier to the department. Are you aware of that issue?

Mr Markovic—Yes, I am.

Senator SHERRY—Are you able to indicate what ComSuper’s understanding of the proportioning rule application will be in the public sector funds?

Mr Markovic—From 1 July the proportioning rules will mean that members who take certain benefits will receive a different taxation treatment. Prior to 1 July, members who take

certain benefits are able to access them tax-free, or effectively tax-free. Post 1 July the benefit will be effectively taxed in the proportion of the total benefit—so taxable and tax-free.

Senator SHERRY—So there would be, to varying degrees, an increase in tax from 1 July.

Mr Markovic—There will be a changed taxation arrangement from 1 July.

Senator SHERRY—It has changed but in some cases it will mean an increase in tax.

Mr Markovic—For certain components, there will be a different timing of payment. That is probably a more accurate way to describe it.

Senator SHERRY—Certainly some people who have contacted us have interpreted it or viewed it as an increase.

Mr Markovic—We have had similar correspondence, and for earlier payments there will be a higher amount of tax paid, which will be, in part, offset by lower amounts of tax at a later point in time.

Senator SHERRY—Have there been any discussions about this issue with Treasury?

Mr Markovic—We have raised the issue with Treasury as an impact and we have had extensive lobbying from members, particularly of military super. They are the members who will primarily be affected by this change. We have certainly raised the issue with them. Ultimately the policy decisions and regulations are a matter for Treasury.

Senator SHERRY—We have not got the regulations yet, have we?

Mr Markovic—Yes. The regulations are out for—

Senator SHERRY—On this issue?

Mr Markovic—Yes, they are.

Senator SHERRY—Okay. I stand corrected. The application that you have outlined has not changed as a consequence of those regulations that have been issued.

Mr Markovic—What I have described to you is our understanding of the regulations as they exist at the moment and are intended to apply from 1 July.

Senator SHERRY—And there has been no adjustment or change based on the submissions or meetings you have had with Treasury.

Mr Markovic—I understand the regulations have been under constant development over the last three months and a range of changes have occurred as a result of industry consultation. I cannot describe what lobbying has resulted in which changes to those regulations.

Senator SHERRY—Do they deal with the issues that you outlined earlier, particularly in respect of military superannuation?

Mr Markovic—They certainly describe the taxation treatment to apply from 1 July, and that is the treatment that I have described to you.

Senator SHERRY—I note that in respect of the plan to simplify and streamline superannuation as part of the consultation process, ARIA made a submission to that inquiry.

Mr Gibbs—I am sorry; which inquiry?

Senator SHERRY—ARIA made a submission to the consultation phase of the plan to simplify superannuation that was announced in the budget.

Mr Gibbs—Yes.

Senator SHERRY—Was it on this issue?

Mr Gibbs—It was not on that issue. It was actually on the former issue you raised.

Senator SHERRY—The post-60 non-super tax treatment.

Mr Gibbs—Yes.

Senator SHERRY—Are you aware whether Treasury has ever released any detailed calculations of its conclusion on that particular issue?

Mr Gibbs—I am not aware that anything such as that has been released.

Senator SHERRY—Did ComSuper make any submission to that inquiry?

Mr Markovic—We did not make a submission.

Senator SHERRY—So it is your understanding that the negotiations on the proportioning rule are now effectively concluded—regulations are issued?

Mr Markovic—There are regulations in place. I think that would be a question appropriate for Treasury.

Senator SHERRY—But there are no more discussions scheduled to take place?

Mr Markovic—I am unaware of any discussions that are scheduled to take place.

Senator SHERRY—Was the level of inquiry around this issue significant in the context of the number of inquiries ComSuper received and the complexity around the issue—the length of time it took to explain to an individual?

Mr Markovic—In terms of significance, I do not have the exact number of calls from our call centre. We certainly did receive additional calls from military members over the period and, ultimately, all we could advise them of was that the regulations were under development. So the calls would be relatively short. We were not able to explain anything more extensive.

Senator SHERRY—I have a couple of questions on calculation of the pre and post budget implementation of these regulations.

Senator MURRAY—Since you basically were not able to satisfy them, do you have a system for going back to talk to them again now that you have the regulations out? Did you record their numbers?

Mr Markovic—We did not capture the details of calls at that stage. We do intend to communicate the budget tax changes or the simplification changes in a mail-out to all members and all pensioners leading up to 30 June. That will be the primary communication mechanism.

Senator MURRAY—Will that happen before 30 June?

Mr Markovic—That is correct.

Senator MURRAY—So people will not be left up in the air.

Mr Markovic—The current changes will be explained to members. For pensioners, that will be included in the existing mail-out; there will not be an additional mail-out. For the contributing members that will be in an additional mail-out explaining the impact of the changes.

Senator SHERRY—So that will go to the issue we have been discussing?

Mr Markovic—It will explain the impact of the changes in their entirety.

Senator SHERRY—So that issue we have been discussing—the 10 per cent rebate—will be covered?

Mr Markovic—The 10 per cent rebate will be explained for pensioners. There will be limited detail for contributors. It will primarily be explained for pensioners, who are the primary demographic.

Senator SHERRY—Will there also be reference to the income tax treatment of non-super income at age 60?

Mr Markovic—I cannot tell you that off the top of my head. I do not recall seeing that in there. I would need to take on notice whether or not that is included in that mail-out. I certainly know the other items are included.

Senator SHERRY—It has been an issue of contention and a fair amount of comment. I am just wondering why it would not be included. Again, it is a different form of treatment, justified or not, for public sector employees.

Mr Markovic—I can take on notice whether or not that is included in the mail-out material.

Senator SHERRY—Will the mail-out material attempt to explain the justification for the 10 per cent rebate calculation?

Mr Markovic—No. The mail-out material is factual in the sense it describes the new arrangements; it does not provide an explanation or the rationale behind them. Given the demographic, that is usually how we explain any change. We explain the nature of the change rather than the rationale for it.

Senator MURRAY—Will there be a hotline number with your mail-out?

Mr Markovic—We will be using our internal call centre. There will be a 1300 number that pensioners and members can call to get information, and those staff will be appropriately scripted.

Senator SHERRY—When did you say that was going out?

Mr Markovic—The pensioner newsletter will go out towards the end of June, which ties up with the normal mail-out that they will get, and the mail-out for the CSS and PSS members will be happening in early June. I do not have the exact date to hand but it will be in that first week of June, and it will be mailed progressively, given the size of the mail-out.

Senator SHERRY—I have a couple of questions on that proportioning rule and the impact on hypothetical lump sum amounts pre and post the changes which I will put on notice. I will

put them on notice because I would not expect you to provide a detailed response here and now.

Mr Bator—Senator Sherry, at the last Senate estimates you asked whether ComSuper had received its benchmarking results from the international benchmarking that we were involved in. We do have it now for defined benefit schemes—and, as I indicated, for the PSSap, it will not be available till August—but I can provide that other report for you here today.

Senator SHERRY—Thank you.

Senator MURRAY—For the committee or for Senator Sherry?

Mr Bator—For Senator Sherry—well, for the committee!

Senator SHERRY—I know it sometimes sounds like that. Chair, just to clarify our program: I understand Senator Bob Brown had something for ARIA.

CHAIR—He doesn't. He feels his questions have already been answered.

Senator SHERRY—Okay.

CHAIR—In that case, I do not think there are any further questions for ComSuper or ARIA. ComSuper and ARIA are excused; thank you very much. We will go back to outcome 1, as planned earlier in the day.

[7.55 pm]

Senator MURRAY—Dr Watt, this question is for you and it challenges again my high opinion of your department's operation. I want to ask you about something which struck me as strange and I want you to explain how it happened. You know the Superannuation Laws Amendment (2007 Budget Co-contribution Measure) Bill 2007, which was put to the Senate the second day after the budget to implement a budget measure?

Dr Watt—Yes.

Senator MURRAY—Budget Paper No. 1, on page 1-16—I am going to go to the cost of this measure—stated:

This will improve superannuation savings for low income earners at a cost to the Budget of approximately \$1.1 billion in 2006-07.

Just get that figure in your head, \$1.1 billion. I do not have the appropriations bill with me, so I cannot remember what it said, but I think it had a different figure. But the explanatory memorandum for the bill said:

This measure is expected to result in a cost of \$990 million in 2006-07 and \$80 million in 2007-08—and nothing thereafter. So there was a cool \$30 million difference between those two figures within two days of the budget announcement. That struck me as extraordinary. Can you explain it or is it just one of those mess-ups which happen even in the best of organisations?

Dr Watt—Senator, I cannot explain it. I have no doubt there is a rational explanation—sorry, I hope there is a rational explanation; I am sure there will be—but this is not a measure that we are involved in. It is a Treasury measure.

Senator MURRAY—Yes, I appreciate that.

Dr Watt—I can check. We are not aware of a change in the cost of the measure since budget time, but I will confirm that.

Senator MURRAY—Frankly, Dr Watt, I could understand if it was a month or two later, because figures change and you have to be cognisant of that in this field. But for Treasury to produce, within two days, an EM which had a different figure from the budget paper figure struck me as very unusual. Could I ask you to find out about it?

Dr Watt—We will see what we can find out this evening and come back to you before we close.

Senator MURRAY—Thank you.

Senator WONG—Dr Watt, I would like to go through the process of Finance's involvement in the costing of the industry statement released on 1 May?

Dr Watt—Senator—

Senator Minchin—That is the subject area in which you want to ask some questions? I think Dr Watt was going to give you an answer.

Dr Watt—I was, actually! What do you want to know about it?

Senator WONG—I am flagging it so you can get the information.

Dr Watt—The industry statement, yes.

Senator WONG—It's called a signpost!

Dr Watt—We need them, Senator!

Senator WONG—Could you outline to me Finance's involvement in terms of the development and the announcement of the industry statement on 1 May.

Dr Watt—The measures in the industry statement, if memory serves me correctly, were considered as part of the Expenditure Review Committee deliberations through the course of March. We were involved in those deliberations in terms of costing and providing advice to government. The measures in the statement were several of a very large number of measures we costed and provided advice on.

Senator WONG—I would like to unpack that a little bit more in terms of the dates on which advice was provided.

Dr Watt—I would not know them here. I can take that on notice. Perhaps I could help you by saying this: I would have thought that those measures would have come through the ERC process in the normal way, which means we would have first seen them when the Minister for Industry, Tourism and Resources wrote his senior minister's review letter back in October. We started to become involved in those measures. We first saw them back in October as embryonic proposals and became involved with them through the course of late 2006 and early 2007. So there is no one date when we first became involved.

Senator WONG—I am speaking specifically, not in terms of a whole range of other industry policies. There was an announcement by the Prime Minister on 1 May of \$1.4 billion over 10 years. I am specifically asking about the dates or the occasions on which Finance provided advice as to the costing of that announcement.

Dr Watt—What I am saying to you is that that comprises a large number of individual measures which we addressed as individual measures in the Industry, Tourism and Resources portfolio and other portfolios through the budget process beginning in October.

Senator WONG—A range of documents associated with the industry statement announcement were printed—correct?

Dr Watt—I believe so.

Senator WONG—There were also written costings provided with the Prime Minister's announcement?

Dr Watt—I believe so.

Senator WONG—When did Finance see those costings—that table? When did you see that document, or did you not?

Dr Watt—I would have to defer to my colleague.

Mr Suur—The draft documents relating to the announcement made on 1 May were provided to us before the announcement, to check. I cannot recall exactly when but it was a few days before the announcement.

Senator WONG—Was that your area?

Mr Suur—Yes.

Senator WONG—In less than a week or more than a week? I understand that you cannot tell me exactly how many days before.

Mr Suur—It was a matter of days.

Senator WONG—As a result of Finance checking the documents, were any alterations or corrections made?

Mr Suur—I cannot recall. I will have to take that on notice.

Senator WONG—Does anyone else recall? Do you have other officers here?

Mr Suur—Not from this area. We were provided with a range of documents. Part of the work that we do is to check all of the numbers and their consistency and provide comment about the numbers and how they cross-check. That is an iterative process that happens with a large amount of budget documentation, and it happened in this case as well.

Senator WONG—Do you have any knowledge of a range of documents associated with this announcement containing incorrect figures and having to be reprinted?

Mr Suur—I need to check that. It does not come immediately to mind. I will have to take that on notice.

Dr Watt—They are not our documents.

Senator WONG—No, but you checked them and I am trying to work out whether any of the changes were as a result of Finance checking the document. You had an involvement in checking the costings in the document. So you have no knowledge of such an event, Mr Suur, or anyone in your area?

Mr Suur—I will have to take that on notice.

Senator WONG—There is no-one here who can assist us with this?

Mr Suur—No, there is not at this stage of the evening.

Senator WONG—We did indicate that outcome 1 would be coming back, Dr Watt.

Mr Suur—I have taken the question on notice.

Senator WONG—So basically there is no point in me asking you any questions about this, Mr Suur, because you do not know anything about it and the department has sent home the relevant officers, despite there being clear advice that we would be coming back to outcome 1. Is that the state of the affairs?

Dr Grimes—I think the issue is that these were documents that were produced by the department of industry.

Senator WONG—That is not the issue. I am perfectly aware of whose documents they were and we will be asking those questions. But I am asking about your department's involvement in checking the costings associated with this announcement. As I understand the evidence from the table, the relevant officers are not here. Is that right?

Dr Grimes—I think you asked questions around the way in which the documents were being produced, whether a document was revised or shredded—

Senator WONG—As a result of Finance checking.

Dr Grimes—as a result of Finance checking. I am unable to answer that question at the moment. Mr Suur has indicated that we would take that question on notice. The thing we can confirm quite clearly is that we were involved in checking the documents and through that process we would have had some interaction with the department of industry.

Senator WONG—So do you have any knowledge of any of the documents associated with the industry announcement having to be altered?

Dr Grimes—I understand that there may have been alterations in documents. I only understand that second-hand. I do not have first-hand knowledge of that. I do not know the nature of changes that might have been made when the documents were being finalised by the department of industry. I certainly do not know that first-hand. Indeed, that is why we are suggesting it is most appropriate to deliver those—

Senator WONG—I have heard that.

Dr Grimes—questions to the department.

Senator WONG—And I have said, Dr Grimes, just so we do not have to be repetitive at this time in the evening, that we will be putting them to that department, but I am asking you questions now about Finance's involvement.

Dr Grimes—And we are answering questions on Finance's involvement.

Senator WONG—You said you know this second-hand. Can I ask how you know it?

Dr Grimes—I believe that I heard around the time of the documents being produced that there may have been late changes in those documents, but exactly what changes were made to the documents and what that resulted in, I am simply do not have those details.

Senator WONG—I want to turn now to the ANAO report—I do not think this has been dealt with but I am sure someone will tell me if it has—in relation to the Commonwealth Procurement Guidelines. Is this the relevant outcome for that?

Dr Grimes—No, this is not the relevant outcome. There were a number of questions asked around the Commonwealth Procurement Guidelines with the relevant outcome. We may see whether the officers are still here though.

Senator WONG—Somebody has just walked in.

Dr Grimes—Mr Grant is here and he should be able to answer questions on the guidelines.

Senator Minchin—Mr Chairman, just for the record to make sure there is no possibility of doubt about this issue, Dr Watt seeks to put something on the record with respect to that industry statement and Finance's involvement.

Dr Watt—Senator, I confirmed those costings on the morning of the statement myself, following a request from the minister for finance just to be sure, and I did that. So we confirmed them.

Senator Minchin—For the record, the final costings that were published were approved and signed off by Finance. If Senator Wong has another issue, she is welcome and entitled to pursue it; but, just for the record, I do not want to leave any doubt about the sign-off by Finance on the final documents.

CHAIR—Thank you, Senator Minchin.

Senator WONG—I might just go back to that—which probably does not surprise you, Dr Watt. So you personally or the department signed off on the final costings that morning?

Dr Watt—I personally had a look at them. I do not sign off on a costing, but I personally had a look at it. It is not unusual.

Senator WONG—I didn't even ask that. 'Methinks he doth protest too much' is the phrase that comes to mind!

Dr Watt—No, no; I am helping you, Senator.

Senator MURRAY—Here he was thinking you were an ignorant lawyer, and you know Shakespeare!

Senator WONG—It was barely Shakespeare; it is so hackneyed these days. Anyway, it is 'she', I think, not 'he'. Well, how often do you do that? How often does Dr Watt personally look at costings for announcements?

Dr Watt—I did not look at the costings. I looked at the overall cost of the package rather than individual costings. That would happen occasionally, from time to time, not regularly. But, equally, it is not unknown.

Senator WONG—You did not get to look at the \$10 billion, though, did you, Dr Watt?

Dr Watt—I do not think there is any advantage in going back over that, Senator.

Senator WONG—That is an opinion. You wouldn't want to be expressing an opinion, would you, Dr Watt!

Dr Watt—Only my own, Senator.

Senator WONG—It is not normal, though, is it? That is not the normal process.

Dr Watt—No, but nor was it a normal package. A normal package would have come out of the budget. It was an individual, stand-alone package which had a number of bits and pieces in it.

Senator WONG—Not every package that is not a budget announcement is looked at personally by the secretary of Finance. Did you—

Dr Watt—No, but this—

Senator WONG—Let me finish the question. Is it—

Dr Watt—But there is a premise there. That was not a budget announcement. It was a pre-budget announcement, which made it unusual.

Senator WONG—That is my point: not every announcement that does not come out of the budget is looked over personally by the secretary of Finance.

Dr Watt—No, and I have not suggested that. I think the point that I was making is that it was a significant, stand-alone package. Had this been in the budget, as one subset of the budget as a whole, I doubt I would have looked at it, because it was a much bigger whole—but, as a stand-alone package, I did.

Senator WONG—Did you look over it as a result of a request from the minister?

Dr Watt—The minister and I discussed it, yes.

Senator WONG—Do you want to tell us why you asked Dr Watt to personally look over it, Minister?

Senator Minchin—Yes, I am just wondering about that—whether I want to tell you or not! There is always an issue when you are in government about what budget decisions are announced in the budget and what decisions are announced prior to a budget. Ministers—who you will find if you ever get into government—who are not the Treasurer want to announce things prior to budgets, and a Treasurer tends to want to keep things in the budget. The industry minister was keen for this announcement to be made separately from the budget, and I think industry was keen as well. Because there had been a lot of flagging of this industry package, industry was keen for it to be announced prior to the budget. It meant that, in order to ensure that the package could be announced prior to the budget—and the decision to announce it before the budget was made not long before it was announced—because of the nature of the announcement, it had to have Finance's tick-off. Because it would otherwise have been dealt with in the budget papers, it needed Finance's final tick-off. So I was approached, and I asked Dr Watt to take personal responsibility for ensuring that it could be released, according to the timetable agreed within the government, with Finance's imprimatur, in a sense, as to the costings. So it related to a decision taken—which is not unusual—about the timing, really, of announcements that would otherwise have been made in the budget but were announced before the budget.

Senator WONG—And you made that request the morning of the announcement or the night before?

Senator Minchin—I do not know.

Dr Watt—I think it was the morning of the release, yes.

Senator Minchin—Was it?

Dr Watt—Yes, very early in the morning, Senator—plenty of time to look at a costing.

Senator WONG—You are anticipating questions I was not even going to ask, Dr Watt. Minister, were you aware of any corrections that had to be made in the published costings associated with the—

Senator Minchin—No, there were no corrections. I think what you are getting at is the issue of the time frame the costings were to cover. Your leader in his budget reply announced policy relating to supplying every school in Australia with a technical classroom and he gave it a 10-year time frame. In this case the desire of both the minister and the industry generally was for a longer time frame. Many of our, and your, policies in the industry arena are five- to 10-year policies. That has been the norm on both sides, to give industry some certainty. It was agreed therefore that, although normally you look at a budget in the four-year forward estimates time frame, it was appropriate in the case of this industry statement to put a 10-year time frame on the costing of the initiatives. The adjustment to enable the statement to be made on a 10-year basis needed that sign-off. Clearly you have had information given to you by a variety of sources. What you have been told may have been based on original drafts that were based on a four-year, or certainly a shorter, time frame for the initiatives. Obviously, if you decide to project them over 10 years, you have to change the numbers. I think that is probably what you are getting at.

Senator WONG—When was the decision made to lengthen the time frame?

Senator Minchin—The decision was made that it would be announced with a 10-year time frame. You would need to pursue that with the industry department. We were asked to verify a 10-year costing. The decision on the presentation of this program was essentially a matter for the Prime Minister and the industry minister. A proper decision was made by them, I guess, that it be over a 10-year time frame, and we were asked to verify that. You may have received some information that was later changed. I am guessing at that. The change that I am aware of that you may be alluding to was to present it on a 10-year basis.

Senator WONG—Thank you. Were you aware of any changes to the printed documentation that were required as a result of the lengthening of the time frame?

Senator Minchin—No, I am not. Again, you would have to pursue that with industry.

Senator WONG—Mr Grant, my colleague Senator Ludwig put a question on notice about the Audit Office report on the implementation of the revised Commonwealth Procurement Guidelines. Are you familiar with that?

Mr Grant—I do not recall it.

Senator WONG—It was F84. Do you have that now?

Mr Grant—I do, yes.

Senator WONG—This is a question in relation to criticisms that the Audit Office makes of the implementation of the Commonwealth Procurement Guidelines and the arguably poor

performance of agencies in terms of compliance with those guidelines for various contracts. I suppose the primary concern that I want to raise with you is the answer to question 1, the last paragraph, which says:

The analysis required to respond to the question using the start date as the reference point, rather than the date of contract signing, has not been undertaken by Finance, and to do so would require a substantial resource allocation.

I say first that my understanding of those guidelines is that, if you want to do an analysis of compliance, you actually need to look at the start date.

Mr Grant—That is correct: it is the date of commencement of the contract, which can be different to the signing date.

Senator WONG—Correct. Given that the start date would often precede the signing date—is that likely?

Mr Grant—I am sure it does happen but it is certainly not recommended. Perhaps I could give you the exact words: within six weeks of entry into the agreement is when the publication in AusTender is required.

Senator WONG—The point is that the Audit Office report found that quite a substantial proportion of contracts published in 2005 was not published within the requisite period. That is the issue.

Mr Grant—Yes.

Senator WONG—In relation to Senator Ludwig's questions 1, 2 and 3, you continue to say that the analysis required would require substantial resource allocation.

Mr Grant—We operate what is called AusTender, where agencies input information with respect to contracts awarded above \$10,000. In accordance with the CPGs, they are expected to do that within six weeks. They enter the date on which the agreement was entered into and that information is readily available on AusTender. The current system uses old technology and it is quite difficult to search. We have been talking to the Joint Committee of Public Accounts and Audit and the Senate Standing Committee on Finance and Public Administration about the new AusTender system, which will in fact allow that search facility to be much more easily done.

Senator WONG—Does DOFA consider that it does have some responsibility for ensuring the procurement guidelines are met or at least for improving agencies' performance in relation to compliance with those guidelines?

Mr Grant—We work with agencies to improve their performance. There is a series of things that we do. We run a monthly procurement discussion forum where we raise issues, bring in speakers from the likes of the Australian National Audit Office and look at matters where we think agencies need to be informed. In the past couple of years, twice a year, we have run a seminar roadshow where, again, we have picked up items that in our view need to be expanded upon and where agencies can do two things: improve their performance, and, more than that, perhaps understand why we are asking them to do it. It is about improving compliance.

Senator WONG—Sure.

Mr Grant—We also have an agency advice section which agencies can come to to seek advice. So we do promote compliance with the CPGs. As I said earlier tonight, under section 44 of the Financial Management and Accountability Act, it is the responsibility of the chief executive.

Senator WONG—The ANAO report said DOFA's compliance for 2005 was 59 per cent and for 2006 it increased to 62 per cent.

Mr Grant—Yes.

Senator WONG—Sorry; I think it is the other way around, isn't it? Thirty-eight per cent of your contracts were published on time. Is that right?

Dr Watt—Are you asking a question about Finance's compliance or the overall compliance?

Senator WONG—Your compliance.

Dr Watt—In that case, we need another person at the table. We will have to get that person. We had not realised you were going back to—

Senator WONG—I was not proposing to go through that in detail. My point was that Mr Grant says you take an interest—

Dr Watt—Mr 'Grant'.

Senator WONG—I said that.

Dr Watt—No, you said 'Grant'.

Senator WONG—No; I am from South Australia.

Senator Minchin—The sound system is obviously a problem.

Senator WONG—You understood me, didn't you, Senator Minchin?

Senator Minchin—Yes, of course I did.

Senator WONG—We say 'dance' and 'grant' differently to however you people do!

Senator SHERRY—Excuse me!

Senator WONG—Well, I am just saying—

Senator Minchin—She is quite right.

Senator WONG—It is one of the few things Senator Minchin and I have in common.

Senator Minchin—There is probably much more than that.

Senator WONG—Senator Minchin is a Crows supporter, so—

Senator Minchin—That is true.

Senator MURRAY—Thank God we do not have 51 states! Can you imagine the banter? It would be unbearable.

Senator WONG—Mr Grant, my point was this: Finance, which is supposed to be providing leadership, also has quite a poor rate of compliance, according to the Auditor-General.

Mr Grant—That is certainly what the Auditor-General's report shows.

Senator WONG—It seems from the answer provided to Senator Ludwig that Finance has not made it a particular priority to analyse the data that is outlined in the question in much detail.

Mr Grant—I do not think that is correct. We do recognise that it is an issue. At present we operate a relatively old central system which is not easy to interrogate. We have put significant effort into developing a new system, which will be online from 1 July and will allow much better interrogation.

Senator WONG—One of the points around the procurement guidelines is to ensure that the taxpayer is getting value for money—correct?

Mr Grant—Absolutely.

Senator WONG—The poor level of compliance of government agencies is a concern from that perspective.

Mr Grant—This is about reporting, not necessarily about value for money. The process is what delivers value for money. Transparency certainly assists—

Senator WONG—I was going to ask if transparency was not relevant.

Mr Grant—understanding of the value of the contracts we have entered into, which obviously then contributes to a perception of value for money.

Dr Watt—In relation to our own performance—

Senator WONG—I am sure you are going to get there, Dr Watt, aren't you?

Dr Watt—You are right.

Senator WONG—Good luck with 1 July. I hope that it does improve as a result. I think I asked some questions last time on the Auditor-General's report *Application of the outcomes and outputs framework*. I am not sure whether or not Senator Murray covered these to some extent earlier today.

Dr Watt—We are happy to answer questions on that.

Senator WONG—What is the progress on the updating of Finance's guidance on the outcomes and outputs framework?

Mr Loudon—Are you after an update of our work on the report on the guidance?

Senator WONG—Yes.

Mr Loudon—As I think we said at the last hearings, we are aiming to have the guidance out by the end of this year. We are working on that guidance at the moment and looking at improving the language, clarifying the issues and trying to make it more reader friendly. We will be going out to agencies to discuss and consult on the guidance in the next couple of months and aiming for publication at the end of the year. One of the issues that we are looking at is obviously the recommendations of the Senate Finance and Public Administration Committee report on transparency and accountability. We are just going through those issues to see whether that has any impact on what we do in relation to the guidance on outcomes.

Senator WONG—You might have told me on the last occasion that a good practice guide in relation to the machinery of government changes was issued in January 2007. Is that right?

Mr Loudon—Yes, I think there was machinery of government changes guide put out early this year by the Australian Public Service Commission on behalf of the government.

Senator WONG—So you have draft guidance out there on the outputs framework?

Mr Loudon—Not yet. We are looking particularly at the report on transparency and accountability before we progress with consultations with agencies.

Senator WONG—Has any work been done since we last had a discussion and since this report on improving agencies' performance in the context of the outcomes-outputs framework?

Mr Loudon—Yes. Our continuing work in this area is to talk to agencies who are considering changes and work through with them, fairly systematically, any updates to outcomes. That goes through what programs, performance information and performance indicators they have; the connection to the outcomes; and the nature of the outcomes. We have talked to agencies and we continue to talk to a number of agencies, but not specifically on the guidance at that stage.

Senator WONG—To what extent is Finance actually progressing the Auditor-General's recommendations?

Mr Loudon—This is one aspect on which we have been doing quite a lot of work, but we have been doing a broader set of work on the simplification of the financial framework, of which this is one component. Because of that, we are also looking at the issues that were brought up both in that report and in the Senate Finance and Public Administration Committee report in relation to creating better connections and communication between programs and in relation to the connection between programs and outcomes. We have been doing a lot of work, but this is only one aspect of that.

Senator MURRAY—You have responded as a department to the Auditor-General's recommendations.

Mr Loudon—Yes.

Senator MURRAY—It says in there what your attitude is to each, although obviously there is a great deal of work that is consequent to that decision. It is not in your hands, but it would be useful for those interested in this policy field and for the Senate if your response to the Senate report as a department, relayed through the minister to the cabinet, were to come down before you have finalised your publication at the end of the year. You would understand that from a practical point of view.

Mr Loudon—Yes.

Senator MURRAY—I will just lodge that in your heads. You obviously cannot commit yourselves because it is a government issue, but please be cognisant of that.

Mr Loudon—That was one of the reasons we are not speeding, I suppose, to put out the guidance in general until we have seen and analysed the report and the government has had an opportunity to respond to that report—so that we can take both the ANAO report and the

committee report into account in the guidance that we produce. The Senate committee obviously has made a number of recommendations which go beyond the ANAO report.

Senator WONG—Can I just clarify—when you say ‘that report’, are you referring to the Senate report and not the Auditor-General’s report?

Mr Loudon—Yes, the Senate report.

Senator MURRAY—But the Senate report took into account the Auditor-General’s report.

Mr Loudon—Yes.

Senator MURRAY—The two meshed together.

Mr Loudon—That is right. We were looking at how they came together and therefore what advice we would provide to government on the future beyond what we had already said in relation to direct response to the ANAO.

Senator WONG—Going to the Auditor-General’s recommendations in this report, there has not yet been updating of guidance material because of the current consultation process on other matters relating to the framework. Is that right?

Mr Loudon—I have internal material, but we have not distributed it to agencies.

Senator WONG—This is in relation to agency compliance, isn’t it?

Mr Loudon—Yes. When an agency have talked to Finance about their outcomes, we have talked to them about what sort of guidance would be appropriate. We have been talking fairly broadly in those terms, but we did not want to commit until we had seen the report and the government had been able to provide its response.

Senator WONG—‘The’ report?

Mr Loudon—The Senate committee report.

Senator WONG—So you did not want to commit in relation to your response to the Auditor-General’s report until you had seen the F&PA report.

Mr Loudon—We are committed to what we have said in relation to—

Senator WONG—I am just clarifying what the evidence is.

Mr Loudon—What I am saying is that we have said that we will undertake the work in relation to our response to the ANAO report, but we said at the last hearings that we would complete, in particular, the guidance and support materials at the end of this year. That time line was set in relation to understanding that the Senate committee report would be out and responded to prior to that being finalised so that we would be able to do a fairly thorough job on what needed to be done and do it once rather than having to republish.

Senator WONG—So at the end of the year we are likely to have updated guidance material.

Mr Loudon—Yes.

Senator WONG—Will the clarification of the minimum requirements that agencies are expected to comply with form part of the guidance?

Mr Loudon—Yes.

Senator WONG—And that currently has not occurred?

Mr Loudon—We continue to work with them but, no, we have not gone to the extent that we hope to in finalising the guidance material.

Senator WONG—What about facilitating the exchange of information et cetera in relation to the application of the framework?

Mr Loudon—We have been and continue to be involved in a number of networks across the service, including the Chief Financial Office Forum and also the Canberra Evaluation Forum, where these issues are periodically discussed. We will continue to look at specific areas for future development. Our main contact with agencies is through the Chief Financial Officer Forum.

Senator WONG—What about the inclusion of program information?

Mr Loudon—That is an issue that we are looking at—

Senator WONG—Closely at.

Mr Loudon—and we will be providing advice for government consideration.

Senator WONG—When will that advice be provided?

Mr Loudon—By the end of this year. That is an issue that was particularly important in relation to the Senate committee report. We will be providing that response for government consideration very soon. Once we have an understanding of the government's wishes, we will be able to work more on that issue.

Senator SHERRY—I have some questions about the cost of construction of the National Portrait Gallery—and not too many of them.

[8.38 pm]

CHAIR—We will move to outcome 2.

Senator SHERRY—It appears that the original estimated cost of the National Portrait Gallery project has increased by \$14.1 million in 2007-08. Would that be a correct observation?

Mr Scott-Murphy—Yes, the budget allowance for the National Portrait Gallery has been increased by \$14.1 million.

Senator SHERRY—It is stated that the gateway reviews are necessary for completion of the project. Were there gateway reviews in the original costing of the project?

Mr Scott-Murphy—The National Portrait Gallery has not been subject to a gateway review process.

Senator SHERRY—Why not?

Mr Scott-Murphy—Gateway, as I understand it, is for high-risk projects and the National Portrait Gallery has not been deemed to be a high-risk project.

Senator SHERRY—Why has there been a cost overrun? Is it a cost overrun or an additional function creep, if I could use that expression?

Dr Watt—It might be helpful if we explain the reasons for the increase.

Senator SHERRY—Okay.

Senator MURRAY—I am not aware of the actual figure. What has it increased from? You said it has increased by \$14.1 million. What did it start at—just roughly, just so I have a figure in my head?

Mr Scott-Murphy—The budget went from \$73.6 million to a total budget of \$87.7 million. The reasons behind the need for additional funding for the National Portrait Gallery fall into three areas. There has been considerable pressure in the construction market, as you would be aware, so there has been some escalation in prices and some prices have exceeded the original budget. This became evident with the fees that were applicable, all of which are subject to a two-stage open tender process. The tender results that came in brought the budget under pressure for fees to the contractor and to the design consultants. There have been some changes in the environmental and whole-of-life-cycle budget to improve the environmental performance of the building. This is in response to the special needs of the portraits within that building, which require a very high degree of tolerance in the temperature range and the humidity range within the air-handling systems.

Senator SHERRY—I can understand the special needs for air-conditioning for portraits and indeed for museums, but why wasn't that taken into account in the original cost estimate?

Mr Scott-Murphy—An allowance was of course made for that in the original cost estimate. These costs become more certain as the design of the project develops. At the time the original estimates were made, we did not have a design solution for the National Portrait Gallery so we had to make a best estimate based on industry standards. As the design competition and then the development of the design progressed, there was greater certainty about those costs. Faced with that situation, we really had two alternatives: we could either reduce the scope and size of the building or seek additional funding.

Senator SHERRY—And your third reason?

Mr Scott-Murphy—The third reason related to the repositioning of the building. Originally we had the building close to the ceremonial ramp leading to the High Court. There is a stand of trees on the western side of that ramp, and the High Court expressed concern that the trees might be at risk during the construction of the—

Senator SHERRY—What does whether or not trees are going to be chopped down have to do with the High Court?

Mr Scott-Murphy—That is perhaps a question you should address to the High Court, but they certainly expressed that concern to us.

Senator SHERRY—Let us step back a bit. I just find it amazing that you cannot get the position of the building right from the start. When did the High Court get involved in the position of the building?

Mr Scott-Murphy—The allocation of the land for the National Portrait Gallery was an issue that we discussed at some length with the National Capital Authority. The site was identified and provision was made for the new National Portrait Gallery. It was only when the design solution that was found to be the most suitable became evident that the High Court expressed the view that the trees might be at risk.

Senator SHERRY—What was the problem with the trees being at risk? Was it an aesthetic issue—they did not want the trees to be removed because it would impinge on their view?

Mr Scott-Murphy—That is correct. We were constructing a retaining wall to retain the trees separate from the basement car parking and the position of that retaining wall could have put some of those trees at risk, especially in the drought conditions that we have. So we looked at a design solution that would accommodate the trees and, in doing so, shifted the building some four metres, I believe, to the west.

Senator SHERRY—In these communications from the High Court, who was communicating this—that they did not want the aesthetics ruined with the trees being removed?

Mr Scott-Murphy—They were discussions between myself and the High Court.

Senator SHERRY—But who at the High Court?

Mr Scott-Murphy—Chris Doogan was the officer.

Senator SHERRY—What is Mr Doogan's position at the High Court?

Mr Scott-Murphy—I will have to get back to you with the accurate description, but he is the chief registrar, I believe.

Senator SHERRY—Presumably he had received complaints from other people working in the building, or was it his particular treeless view of the world that was going to emerge?

Mr Scott-Murphy—I believe that he represented the views of the judges of the High Court.

Senator SHERRY—What was the cost of the repositioning of the building due to the judges getting upset that the trees were going to get cut down?

Mr Scott-Murphy—That is part of the budget allocation within the \$14 million.

Senator SHERRY—I understand that. What is the estimated contribution to the cost of shifting the building because of the trees that the High Court judges did not want removed?

Mr Scott-Murphy—I believe the allocation for that shift was \$1.5 million.

Senator SHERRY—So the judges did not want the trees cut down because their view would be impinged and that was at an extra cost of \$1.5 million. What was the approximate contribution for the extra costs for the other two factors you outlined?

Mr Scott-Murphy—The industry fees component of the allocation is approximately \$7.1 million. The engineering tasks—this is to improve the environmental performance of the building—are \$1.9 million. The sustainable development added \$0.6 million. We added to the contingency reserve an additional \$3 million.

Senator SHERRY—When is the estimated completion time for the project, given the additional moneys?

Mr Scott-Murphy—Our target completion date is December 2008.

Senator SHERRY—Just going back to the trees, how many trees are involved in this shift?

Mr Scott-Murphy—I do not have that accurate information in front of me. If you wish, I can respond with that at a later time.

Senator SHERRY—Yes. If it were daylight, I would say that we should go and have a look. Please take that on notice. On top of the additional construction costs, there is a significant additional funding for operational costs of the gallery of some \$21.2 million. It is not clear whether this is an underprovision for the original functions or whether some new functions have been added. What is the reason for the extra \$21.2 million?

Mr Scott-Murphy—I am not privy to that information. I believe it would be best to address that question to the National Portrait Gallery.

Dr Watt—Perhaps I can help. While I am not 100 per cent sure of this, if my memory serves me correctly—so I may be wrong—I think that the cost of running the new building is more significant than the cost of the existing space in Old Parliament House; more space, more people, more everything. This is the first time we have provisioned for that in the budget, the point being that there was no point in come up with an estimate until we were closer to having a building and knowing what we were provisioning against. I think that is the explanation. I am actually looking for the budget measure which might tell me a little more.

Senator SHERRY—It does refer to additional funding upgrade for operational costs of the gallery.

Dr Watt—Yes, this is additional operating funding. I think it is to do with the fact that so far they have only been provided or only been primarily provided with funding for their existing building plus something to help them manage their responsibilities in the new building. This, as I say, is fully funding the new operation. As I said, I think that is the answer.

Senator SHERRY—We will get some more of that elsewhere. This was not a project that the Prime Minister or his office were involved in at all, I take it? You have the judges—no-one else involved?

Dr Watt—We cannot say with any certainty that the Prime Minister has not taken an interest in this—we would not expect to know—because he after all does take an interest in a number of things, as you would be well aware. But we are not aware of any particular involvement, no.

Senator SHERRY—Is there anyone else who has been in citing or providing expertise on various design features, other than the judges, that you are aware of?

Mr Scott-Murphy—I mentioned the National Capital Authority—they obviously have an interest. The Department of the Environment and Water Resources have an interest through the EPBC Act and the potential heritage status of that building.

Senator SHERRY—Did the National Capital Authority and the environment and heritage signify support or approval for the original design positioning of the building?

Mr Scott-Murphy—The way that the National Capital Authority signify their intentions is through a broad set of design guidelines for the site. We certainly had those guidelines at the time the design competition was called for and then the design solution that was offered in concept form was tested against those design guidelines and found to be conforming, and the requirements of the EPBC Act were also tested by that design concept and found to be

conforming. In fact, we have had representation on our steering committee from both of those departments.

Senator SHERRY—So, in terms of the original position of the site prior to the repositioning, there was no issue that those two organisations had raised.

Mr Scott-Murphy—No—that is correct. They had not raised any concerns about that original site.

Senator SHERRY—So it is all down to the judges; no-one else can be identified.

Mr Scott-Murphy—That is correct. It was to preserve the stand of trees.

Senator SHERRY—Why did Finance accede to this request? It is a \$1½ million dollars cost to reposition because the judges did not want the possibility of the trees dying.

Mr Scott-Murphy—As with all development, we try to meet our neighbours' needs and in this case they were our neighbours. Also they have title to the land and we need access across the land for entry to the basement car park. I feel that it was appropriate.

Senator SHERRY—I take it from what you are saying that there is some sort of implied threat that you might not have been able to access the car park unless you acceded to the judges' request not to remove the trees.

Mr Scott-Murphy—I would not characterise it in those terms.

Senator SHERRY—You seem to be pretty clearly implying it.

Mr Scott-Murphy—It is a matter of good neighbourly relationships and nothing further than that.

Senator SHERRY—So you can get into the car park, but they get to keep their trees.

Dr Watt—I think the point is, as Mr Scott-Murphy said, that in a major construction project you need goodwill from the neighbours.

Senator SHERRY—Particularly when you need to access the car park, by the sound of it. I want to go and have a look at these trees.

Dr Watt—You mentioned the Prime Minister's interest. There is one point I should make: he did turn the first sod and opened the building. I think that is the right expression, so he obviously has taken some interest.

Senator SHERRY—Knowing my infamous view on trees, I would go down there with a chainsaw—but, anyway, it is a particularly Tasmanian perspective.

Senator MURRAY—It is a good thing it is me in here and not Bob.

Senator SHERRY—You are right—there would be a guaranteed midnight finish. I want to ask some questions on one other area. The role of the department in the sale of the TGA building in Symonston in 2002; I have a few questions on that. How was the sale managed?

Dr Watt—We will see what we can do, but I am not sure that I have anyone who was involved in that sale still in the department, certainly not in the relevant area. I thought it was 2001.

Senator SHERRY—I have 2002.

Dr Watt—Perhaps the proceeds were collected in 2002.

Senator Minchin—It is before my time.

Dr Watt—Certainly, Senator Minchin and I were not involved—at least not significantly—in the sale of the building. Senator Minchin arrived at the end of 2001 and I arrived in 2002. We might have a pinch hitter.

Senator SHERRY—There might be some information that officers have about the rental arrangements of the building, which would be a more current issue.

Dr Watt—We have been down this road on rental arrangements before, as you know. I think the problem for us is that we do not do not have a detailed understanding of agencies' rental arrangements and never have had. I am happy to take the questions on notice if you like, but I think we would have no-one who could go back to that tonight.

Mr Lewis—We need access to files.

CHAIR—Dr Grimes, do you have something to add?

Dr Grimes—I hope I can help Senator Murray on the issue he raised earlier on the superannuation co-contribution bill.

Senator MURRAY—The loss of \$30 million.

Dr Grimes—Yes. I am not sure whether I will be able to answer your question, but this may help.

Senator MURRAY—Correcting a mistake is perfectly acceptable.

Dr Grimes—We have dug up the explanatory memorandum, which of course is a document that has been prepared by Treasury. Those numbers in the EM are on an underlying cash basis. They refer to \$990 million in 2006-07 and \$80 million in 2007-08, whereas the numbers in Budget Paper No. 2 are fiscal balance numbers, so they record that the full liability is recognised in 2006-07.

Senator MURRAY—What is the figure in the appropriation bill?

Dr Grimes—I do not have that figure here.

Senator MURRAY—The most important figure is the appropriation bill figure, not the budget figure. The one thing I would not like to see is the appropriation bill reflect the \$1.1 billion, not the EM's \$1 billion and \$70 million. Do you get it?

Dr Grimes—Yes, do get it.

Senator MURRAY—Otherwise somebody has \$30 million they should not have. Perhaps I could leave it at this: please double-check that that has not occurred.

Dr Grimes—We are happy to do that.

Senator MURRAY—That would be a much worse mistake and the difference between a budget paper and a bill that has been passed.

Dr Watt—Following the line of your questioning, we are happy to check that. While none of us will be back here tomorrow, we hope, we are happy to get an answer back as quickly as we can.

Senator MURRAY—I am less interested in the answer than in making sure the appropriation bill does not have \$1.1 billion in it, which I have not verified or checked.

CHAIR—As there is nothing else, we thank the officers of the Department of Finance and Administration. This concludes consideration of your department.

Committee adjourned at 9.02 pm