



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

ESTIMATES

**(Additional Budget Estimates)**

TUESDAY, 19 FEBRUARY 2008

CANBERRA

BY AUTHORITY OF THE SENATE



## **INTERNET**

Hansard transcripts of public hearings are made available on the Internet when authorised by the committee.

The Internet address is:

**<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:

**<http://parlinfoweb.aph.gov.au>**



---

**SENATE STANDING COMMITTEE ON  
LEGAL AND CONSTITUTIONAL AFFAIRS**

**Tuesday, 19 February 2008**

**Members:** Senator Crossin (*Chair*), Senator Barnett (*Deputy Chair*), Senators Bartlett, Fisher, Kirk, McLucas, Marshall and Trood

**Senators in attendance:** Senators Allison, Barnett, Bishop, Campbell, Crossin, Ellison, Fisher, Joyce, Kirk, Marshall, McLucas, Nettle, Parry, Payne, Scullion, Webber and Trood.

**Committee met at 9.01 am**

**IMMIGRATION AND CITIZENSHIP PORTFOLIO**

**In Attendance**

Senator Evans, Minister for Immigration and Citizenship

**Department of Immigration and Citizenship**

**Executive**

Mr Andrew Metcalfe, Secretary

Mr Bob Correll PSM, Deputy Secretary

Ms Carmel McGregor, Deputy Secretary

Mr Peter Hughes, Deputy Secretary

**Internal Products—Enabling divisions that provide services and support to the delivery of all outputs**

Ms Marilyn Prothero, First Assistant Secretary, Financial Strategy and Reporting Division

Ms Alison Larkins, First Assistant Secretary, People Services, Values and Training Division

Mr Chris Hodges, Acting Chief Lawyer, Legal Division

Mr John Eyers, Assistant Secretary, Litigation Branch

Ms Marie-Louise Smith, Assistant Secretary, Review Coordination Branch

Mr Nhan Vo-Van, Assistant Secretary, Ministerial and Parliamentary Services Branch

Mr Des Storer, First Assistant Secretary, Strategic Policy Group

Mr Sandi Logan, National Communications Manager

Ms Susie Van Den Heuvel, Deputy National Communications Manager

Ms Cheryl Hannah, First Assistant Secretary, IT Services and Security Division

Mr Garry Fleming, Assistant Secretary, Service Delivery Network Operation Branch

**Outcome 1—Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people**

**Output 1.1 Migration and temporary entry**

Mr Anthony Parsons First Assistant Secretary, Migration and Temporary Entry Division

Ms Yole Daniels, Assistant Secretary, Business Branch

Mr Peter Job, Acting Assistant Secretary, Temporary Entry Branch

**Output 1.2 Refugee and humanitarian entry and stay**

Mr Robert Illingworth, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Mr John Matthews, Assistant Secretary, Onshore Protection Branch

Ms Judith O'Neill Assistant Secretary, Humanitarian Branch

**Output 1.3 Border security**

Mr Todd Frew, Acting First Assistant Secretary, Border Security Division

**Output 1.4 Compliance**

Ms Lyn O'Connell, First Assistant Secretary, Compliance and Case Management Division

Mr Peter Richards, Assistant Secretary, Compliance Operations Branch

Ms Joanne Verikios, Assistant Secretary, Case Management Branch

Ms Lynne Gillam, Assistant Secretary, Compliance Resolution Branch

**Output 1.5 Detention**

Mr Jeff Lamond PSM, First Assistant Secretary, Detention and Offshore Services Division

Mr Dermot Casey, Assistant Secretary, Detention Health Branch

Ms Lucy Bitmead, Assistant Secretary, Detention Operations and Client Services Branch

**Output 1.6 Offshore asylum seeker management**

Mr Jeff Lamond PSM, First Assistant Secretary, Detention and Offshore Services Division

Mr Dermot Casey, Assistant Secretary, Detention Health Branch

**Output 1.7 Safe haven**

Mr Robert Illingworth, Acting First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Judith O'Neill, Assistant Secretary, Humanitarian Branch

**Output 1.8 Systems for people**

Mr Peter McKeon, First Assistant Secretary, Systems Delivery Division

**Outcome 2—A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably**

**Output 2.1 Settlement services**

Mr Peter Vardos PSM, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Ms Kate Pope, Assistant Secretary, Settlement Branch

**Output 2.2 Translating and interpreting services**

Mr Peter Vardos PSM, Acting, First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Mr Ron Trudgen, Manager, TIS National

**Output 2.3 Australian citizenship**

Mr Peter Vardos PSM, Acting First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Ms Renelle Forster, Assistant Secretary, Citizenship Branch

**Output 2.4 Promoting the benefits of a united and diverse society**

Mr Peter Vardos PSM, Acting, First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs Division

Mr Daniel Boyer, Assistant Secretary, Multicultural Affairs Branch

Dr Thu Nguyen-Hoan PSM, Assistant Secretary Citizenship, Settlement and Multicultural Affairs Division

**Output 2.5 Systems for people**

Mr Peter McKeon, First Assistant Secretary, Systems Delivery Division

**Migration Review Tribunal and Refugee Review Tribunal**

Mr Denis O'Brien, Principal Member

Mrs Mary Urquhart, Deputy Principal Member

Mr John Lynch, Registrar

Mr Rhys Jones, Deputy Registrar

**Migration Agents Registration Authority**

Mr Arnold Conyer, President, Migration Institute of Australia; and Chairman, Migration Agents Registration Authority

Mr Bernie Waters, Chief Executive Officer, Migration Institute of Australia; and Chief Executive Officer, Migration Agents Registration Authority

**CHAIR (Senator Crossin)**—Good morning, everybody. Welcome to the Senate's legal and constitutional committee hearing into the additional estimates for 2007-08. I declare open this public meeting of the Senate Standing Committee on Legal and Constitutional Affairs. The Senate has referred to the committee the particulars of proposed additional expenditure for 2007-08 and related documents for the Immigration and Citizenship portfolio. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee is due to report to the Senate on 18 March 2008. We have determined 2 April 2008 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the examination of the Migration Agents Registration Authority and we will proceed through the designated program the committee has determined.

Under standing order 26 the committee must take all evidence in public session. This includes answers to questions on notice. I want to remind all 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 of 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 want to 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 also resolved 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 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 policy or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the ground on 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 a claim.

I welcome the Hon. Senator Chris Evans, my colleague, Minister for Immigration and Citizenship, and I wonder if Senator Evans or Mr Conyer, our first witness from the Migration Agents Registration Authority, would like to make an opening statement.

**Senator Chris Evans**—Thank you, Senator Crossin. I want to make a short opening statement and Mr Metcalfe will also make a short opening statement, as has been his practice. It is my intention to make a practice of the minister also making a short opening statement. Madam Chair, I thank you for the opportunity to do so. I was pleased to be appointed as minister to a portfolio that has responsibilities, which are both diverse and challenging and which have played such an important role in the development of our nation. Immigration is nation building. Whilst it is an entirely new portfolio to me—and I have been on a steep learning curve—it is clear to me where I need to focus: in skilled migration, developing migration and population policies that address key economic and social needs and meeting the skills needs of Australia; addressing shortages and putting downward pressure on inflation as well as focusing on the longer term demographic trends; border protection, having an effective border security system that starts at source and addresses in-country responses in source at transit countries as well as a fair and robust system for assessing the claims of people who may be asylum seekers; and getting the administrative infrastructure right by building the confidence of the department in its missions and role in the delivery of the government's policy priorities, and this means developing a stronger research, evaluation and analytical capability and a culture of innovation as well as enhanced accountability and transparency.

At the same time, I have been keen to move quickly to implement Labor policies. Senators would be aware that we have resolved the cases of the seven Burmese and 82 Sri Lankans, who were classified as refugees but had been left on Nauru. We moved quickly to end the former government's Pacific solution. At the same time, 16 Indonesians who were discovered in our waters late last year were taken to Christmas Island, assessed, in terms of our international obligations, and ultimately returned to Indonesia. As a priority, I met with my Indonesian counterpart, Mr Mattalatta, in January when I travelled to Jakarta and held very constructive meetings with the Indonesian foreign minister as well on how our countries could better cooperate to stop people smugglers preying on the most vulnerable.

In the area of skilled migration, I have announced an increase of 6,000 permanent skilled visas in the current year, an expansion of the working holiday maker visa and the establishment of an external reference group to examine how we can make the temporary skilled visa program, the subclass 457 program, work more effectively to meet the skilled needs of the resource, construction and infrastructure sectors. It is important that we build confidence and integrity in all our migration and humanitarian programs. As senators would be aware, I have also announced there will be a review of the citizenship test to examine how that can be improved.

I have made it a priority to move on the resolution of what the department quaintly calls 'legacy cases' that have come to represent the problems that beset the department in the past. There are more of them than I expected. I have sought advice from the department as to how



we can move quickly to finalise the 247 cases identified by the Ombudsman where individuals have been unlawfully detained. Obviously, one of those priority cases was to finalise the case of Cornelia Rau and end the terrible ordeal she has suffered. In that context, I can advise that Cornelia Rau's lawyers have communicated to the Commonwealth that they have accepted an increased offer of compensation on her behalf. The terms of settlement remain to be finalised and must be approved by the Supreme Court, but I have been advised therefore it would be inappropriate for me to comment on the details of the settlement at this time but I am hopeful of having that resolved in the next couple of weeks.

I have also made a point of meeting the Commonwealth Ombudsman and the Human Rights and Equal Opportunity Commissioner and look forward to establishing good relationships with both of them and continuing their involvement with the department's work.

I also must say that in my dealings with officers at all levels of the department, I have been impressed with their acceptance of the need for change—the changes highlighted by the Palmer and Comrie reviews—and I think we are seeing them taking increasing pride in how the department has responded to those concerns and seeing a commitment from them to build a strong culture of openness, innovation and accountability that I hope will serve Australia well.

I look forward to working with committee members, both today and in the future. I acknowledge there are a number of senators with a strong interest in these matters and I am keen to engage them in the process of building a strong immigration system for Australia. Thank you, Madam Chair.

**CHAIR**—Thank you, Minister. Mr Metcalfe?

**Mr Metcalfe**—Madam Chair, firstly, on behalf of the department and myself, can I congratulate you on your appointment as chair of this most important committee of the Senate, and also Senator Barnett on his appointment as deputy chair. Both the department officers and I look forward to working very constructively with you over the period ahead.

Thank you for the opportunity to deliver a short opening statement. As you would recall, I have provided a statement at each Senate estimates hearing since mid-2005 to highlight key elements of the progress on the department's significant change and reform agenda brought about by the government's response to the Palmer and Comrie reports in relation to Cornelia Rau and Vivian Alvarez. Over the period, the reforms in themselves have attracted a good deal of interest and scrutiny from external agencies. It is now eight months since the last Senate estimates hearings, in May last year, and there has been considerable further progress—and I am pleased to see some encouraging external commentary.

External scrutiny, particularly by the Ombudsman and the Human Rights and Equal Opportunity Commission, continues and is welcomed by me. In 2007 the Ombudsman published a number of specific reports on the results of the 247 cases referred to him in 2005, and a separate report which derived a number of lessons learnt applicable to all areas of government. I regarded that is a very useful and timely report. In January this year the Human Rights and Equal Opportunity Commission published a summary of observations, following the inspection of mainland immigration detention facilities in 2007. While these reports by external scrutiny bodies continue to identify areas where our processes or capacity need to be

improved or where policy changes are recommended, there has also been positive comment. The Ombudsman noted:

... substantial improvement in the quality of administrative activity and the efficiency of the internal systems within Immigration. There is no doubt the substantial reform program that has been under way since the cases of Cornelia Rau and Vivian Alvarez has made a major difference to Immigration administration.

At the end of last year, almost 80 per cent of the separate initiatives under the Palmer Plus program had been integrated into the department's ongoing business. The other 20 per cent of projects, representing the longer term and more complex work, are still in the development phase.

The improvements are nowhere more apparent than in the area of health services for people in immigration detention, where they have been achieved working with key external stakeholders who are professionals in the field and with our service providers. This work has been led by a number of departmental officers, principally Bob Correll, the Deputy Secretary, Lyn O'Connell and Dermott Casey. Dermot was recently awarded the Public Service Medal—on Australia Day—for his excellent work in this area. Progress has continued within the Systems for People program, especially in supporting the key areas of compliance, detention and border operations. The changes in detention and compliance have not been restricted to information technology and infrastructure. We believe that staff are now much better supported by training, some of which is certainly accredited, through revised policy and procedural instructions and through our case management system.

The department is nearing the conclusion of a significant revision of its entire holdings of immigration instructions, including bringing all instructions into the one format and developing a number of new ones. As well as being updated, the instructions in key areas more directly reflect the operational processes to make them more usable. A rigorous process of ongoing review is being put in place.

We as a department continue to invest in good governance at all levels. Following an independent review of our governance arrangements in 2007, improvements have been made to the governance framework, including the functioning and strategic focus for the highest level committees. Information about values, standards and accountabilities has been expanded, and there are robust frameworks in place for better managing stakeholder and client relationships, and departmental performance generally.

In 2007 the second staff survey was conducted since the Palmer report. The survey is a mechanism to monitor cultural change and to identify areas for ongoing effort. A major effort indeed was and continues to be put into the follow-up activity to pursue that reform. While I believe that considerable progress has been made, we believe that more work is needed, including on our IT improvement program, on records management, on further enhancements to training and on advancing the outcomes from our community care pilot. We have systematically worked to improve our engagement with key external stakeholders and clients. In our 2007 client satisfaction survey, 80 per cent of clients were satisfied or very satisfied with the service they received. Key stakeholder feedback has similarly been positively identified and outlined in the 2006-07 annual report.

In conclusion, Madam Chair, I would like to record my appreciation of the efforts of my deputy secretaries and, indeed, all departmental staff in continuing to provide effective services while implementing this significant reform agenda.

**CHAIR**—There has been a request for a copy of your opening statement, if that is possible. I know it will be in *Hansard* but senators have indicated that they would like to have a look at it now.

**Mr Metcalfe**—You will forgive me, there are a couple of handwritten changes at the beginning, but I am sure they are legible.

**CHAIR**—Thank you.

[9.16 am]

### **Migration Agents Registration Authority**

**CHAIR**—Mr Conyer, welcome to this morning's hearing and I invite you to make an opening statement if you would like to.

**Mr Conyer**—Thank you, Madam Chair. Since the Migration Institute of Australia was appointed as the MARA in 1998, the migration advice profession has grown markedly. There are now some 3,707 registered migration agents, and their level of professionalism has never been higher. Consumer protection and the need for registered migration agents to maintain high standards of knowledge, ethics and professionalism are central to the role of the MARA. We are working to improve services to consumers and to promote high standards of entry and continued practice within an emerging profession. The MARA last appeared before a Senate estimates committee in early 2006. I would like to highlight some of the more significant events since that appearance.

The new entry requirements have been established for people wishing to enter the migration advice profession. A legal practising certificate or a specific tertiary qualification, being a Graduate Certificate in Migration Law and Practice, is now required. The new graduate certificate is being offered by four Australian universities: Australian National University, Griffith University, Murdoch University and Victoria University.

The MARA has improved its communication with consumers. This includes plain English letters, simplified consumer notices that are translated into 14 languages, and community outreach arrangements that link with ethnic communities and migration resource centres to deliver consumer protection advice about use of registered migration agents. As recently as yesterday, for example, MARA staff met with Afghani community leaders in Western Sydney.

Previous complaint backlogs have been overcome. The MARA now has a caseload of about 100 complaints that are being finalised in an average of three to four months. This is faster than at any time in the MARA's history. Registration arrangements have also been improved, and this should improve further when MARA's new website is rolled out in the coming weeks.

The Commonwealth and Immigration Ombudsman conducted an own motion investigation into the MARA's complaint-handling process. His June 2007 report found that the MARA's complaint handling process had improved significantly over the past 12 months. The MARA is well advanced in implementing the Ombudsman's recommendations.

A review of the statutory self-regulation of the migration advice profession has commenced. The MIA MARA has made a comprehensive submission to this review. We recommend retention of the current regulatory scheme with enhancements for consumer protection, including the establishment of a fidelity fund to compensate consumers for moneys improperly taken by a registered migration agent, and a new code of conduct.

Without wishing to speak too soon, and while acknowledging that the MARA continues to cancel the registration of agents and apply other sanctions where warranted, there are a number of indications that the profession in Australia is maturing and that many of the 'bad apples' have been removed. More and more, reports in the press of abuses by so-called agents refer to unregistered people whose unethical conduct and lack of knowledge damage consumers, tarnish the reputation of Australia's registered migration agents and put the integrity of Australia's visa system at risk. This area needs more focus, and I know that I speak for the whole of Australia's registered migration agent community in offering every support to the Department of Immigration and Citizenship to address this problem.

**CHAIR**—We will now go to questions.

**Senator ELLISON**—I will deal with Mr Conyer's opening statement first. Were the recommendations that you have mentioned in relation to consumer protection a result of an inquiry that was commissioned by the government or were they self-initiated by MARA?

**Mr Waters**—The review was commissioned by the government in mid-2007. The MIA and MARA made a submission to that review and it is in that submission that the recommendations referred to by Mr Conyer appear.

**Senator ELLISON**—And that is now with government for consideration; is that right?

**Mr Waters**—The external reference group appointed at the time is still to report to government.

**Senator ELLISON**—Do you have any idea when that report is due?

**Mr Waters**—I understand from the external reference group that they are due to report in July.

**Senator BARNETT**—You mentioned the fidelity fund. Could you expand on that and on what is required or likely to be required of registration agents?

**Mr Waters**—The Migration Institute of Australia is recommending the establishment of a fidelity fund, very much along the lines of that which applies in the legal profession, to protect consumers who have been ripped off by a migration agent. For example, if they have paid a professional services fee to the migration agent or they have given the migration agent a migration application fee and those services have not been delivered or that application has not been lodged on their behalf, the fidelity fund would recompense those people for that cost. It fits very neatly with existing arrangements for professional indemnity insurance which would compensate a client if they were given poor or negligent advice.

**Senator BARNETT**—What sort of annual fee would be required of the agent?

**Mr Waters**—That would need to be determined. One of the options we would be looking at would be to use accumulated MARA surplus to establish the fund in the first instance,

topping up the fund as necessary through a levy on agents if the interest and other payments that arose from the fund did not provide enough funds to keep the fund going.

**Senator BARNETT**—What sort of surplus do you have at the moment?

**Mr Waters**—Last year there was a surplus of \$1.8 million and I am expecting a surplus this year in the order of \$1 million.

**Senator BARNETT**—In terms of your plans for the fidelity fund, do you have a picture in your mind of the quantum for such a fund?

**Mr Waters**—I would think that an amount between \$3 million and \$5 million should be self-sustaining.

**Senator BARNETT**—Mr Conyer, you referred to the code of conduct. Is this a voluntary code of conduct?

**Mr Conyer**—The code of conduct is set out in a schedule to the Migration Agent Regulations, and as such it is not voluntary.

**Senator BARNETT**—But you referred to it as being one of the recommendations of the report. What is changing or planned to change in terms of the code of conduct?

**Mr Conyer**—Essentially the code of conduct was drafted in 1998 and has been added to progressively over time. The result of these additions is that we now have a code of conduct which, in the view of the profession, is not conducive to easy reading by consumers or easy understanding of their requirements by agents. We are recommending not a wholesale change in the requirements but simply a rewriting of the requirements, fixing up a couple of loopholes and the like and, generally speaking, making it easier for consumers and agents to comply with.

**Senator BARNETT**—You mentioned bad apples. Have you got an estimation of how many bad-apple type incidents there are each year and a quantum in terms of the problems that are faced by the migration agents and the consumers in Australia?

**Mr Waters**—It is very hard to quantify. During 2007, when I was managing the operation of the MARA, I would think there were four bad apples treated by the MARA. That said, there may have been others that did not come to our attention.

**Senator BARNETT**—I am sure there would be dozens and dozens of others that would probably fall into the category of a bad apple that you just do not hear about—based on my experience of liaison with not only consumers but agents themselves.

**Mr Waters**—One of the issues there is that it is very hard to distinguish between the registered migration agent and the unregistered person, who in effect masquerades as a registered migration agent. Undoubtedly there are a number—and it could well be dozens—that do not come to the MARA'S attention each year. But, if they do not come to our attention in 2008, chances are they might come to our attention in 2009.

**Senator BARNETT**—Sure. You mentioned the prerequisite to be an agent was a legal practising certificate or a university degree. Mr Conyer mentioned the universities that are providing that course. With a legal practising certificate, is that automatic, or are there further provisional development requirements, more skills, required?

**Mr Waters**—There are a number of other requirements, but they are not skill based. For example, the individual must have a certain level of English, they must be over the age of 18 years, they must be of good character and they must not be associated in business with people of bad character.

**Senator BARNETT**—My final question concerns regional Australia. Obviously the bulk of your agents—I think you mentioned 3,377—

**Mr Waters**—3,707.

**Senator BARNETT**—The bulk of these would be in the major capital cities—Melbourne and Sydney—I assume.

**Mr Waters**—Sydney is by far the largest holder of migration agents, but there are over 200 registered migration agents overseas, and they are also dotted around the country, including in quite a large number of the regional areas. But, without question, Sydney, followed by Melbourne, would be the largest centres.

**Senator BARNETT**—I come from Tasmania, and I know that there are some down there, but not that many. Do you think that is an impediment to regional areas and places like Tasmania accessing migrants?

**Mr Waters**—I do not believe it is, largely because I think the location of a migration agent is not a major impediment to the engagement of their services. I know of some migration agents, for example, who conduct their business entirely over the internet.

**Senator BARNETT**—And that is becoming more frequent, is it?

**Mr Waters**—It is difficult to tell, but I imagine that, if that is the way that the internet is becoming more and more widespread, it will follow in the migration advice profession as well.

**Senator BARNETT**—Thank you.

**CHAIR**—As there are no further questions, we thank you very much, gentlemen. That ends your presentation for today.

[9.29 am]

#### **Migration Review Tribunal and Refugee Review Tribunal**

**CHAIR**—I welcome tribunal members and officers to the additional estimates hearing.

**Senator NETTLE**—I want to raise an issue we have talked about before and it concerns the training for members of the tribunal on issues relating to sexual orientation. Could you give me an update?

**Mr O'Brien**—Although this is my first attendance before this committee, I was aware that this issue was raised before the committee last time. The position was that the former principal member had undertaken to arrange for sexuality awareness training for members of the tribunals. Perhaps I should give a little background. This issue arises principally in relation to the definition of a refugee as set out in the convention. Of course, one of the convention grounds upon which a well-based fear of persecution can arise is membership of a particular social group. In recent times claims have been made that homosexual men or

homosexual women in a particular country come within that category of a particular social group.

After the appearance before this committee last time, we were approached by the Gay and Lesbian Rights Lobby for them to provide some training for us. That was an offer which we gladly accepted but I have to say, unfortunately, nothing has eventuated out of that since they first approached us. We have been speaking to them off and on, and we have had promises of something coming, but nothing has happened. So we decided to look after the matter ourselves, in a sense. We have already conducted in Sydney some focus group discussions on sexuality awareness training. Those focus group discussions have been facilitated by a member of the tribunal. They are to be repeated, I think, this week in Melbourne amongst the Melbourne members. We have also separately engaged two academics from Melbourne university, whose names just escape me at the moment, to provide some training to us. That training will be conducted in Melbourne initially but, depending how it goes with the Melbourne members, we intend to roll it out in Sydney. That is about the position at the moment.

**Senator NETTLE**—Thank you. That is pleasing to hear. Could you get the names of the two Melbourne academics who will conduct the training for you?

**Mr O'Brien**—Yes. In fact, Mrs Urquhart might have those names to hand.

**Mrs Urquhart**—Kristen Walker and Jamie Gardiner are the two Melbourne academics who have been approached to address the tribunal in a panel situation.

**Senator NETTLE**—That is what I was interested in. Thank you very much for the update.

**Senator BARNETT**—Can you provide the credentials of Kristen Walker and Jamie Gardiner, please?

**Mrs Urquhart**—I do not have their CVs or biographies here. If I could take that question on notice and undertake to supply them to you, I will do so.

**Senator BARNETT**—Thank you. What is the cost of the training?

**Mr O'Brien**—At the moment, the in-house focus group trainings have cost us nothing apart from members' time because we have been conducting those in-house. I am not aware of the cost of the external academics. It would not be very much, Senator.

**Senator BARNETT**—Can you take that on notice?

**Mr O'Brien**—Yes, we can provide an answer to you on that.

**Senator BARNETT**—Can you describe the training and the content of the training?

**Mr O'Brien**—Mrs Urquhart can give some outline of the training.

**Mrs Urquhart**—The focus groups, one of which has already taken place in Sydney and one of which is to be conducted in Melbourne tomorrow, have been put together by one of the members. There have been approaches to the question of particular social groups raising the whole issue of homosexuality and protection visa claims due to homosexuality. There are approaches to the issue of credibility, how you would go about identifying homosexuality in relation to a claim of homosexuality, reasonable questions and lines of inquiry that you would put to an applicant in such cases, the fine line between pursuing legitimate avenues of inquiry

and giving an appearance of expectations and consideration of witness evidence—issues which are most challenging in relation to this area—the use of country information to support what is being said and case law in the most recent cases in which the issue has arisen. These are the sorts of things that are being covered in the focus groups.

**Senator BARNETT**—What is the issue of case law? Explain that.

**Mrs Urquhart**—We have had some useful cases determined recently. We have circulated them for discussion.

**Senator BARNETT**—Can you provide an example or take that on notice? I am not sure—

**Mrs Urquhart**—Yes, I will take it on notice to supply you with an example of what I am talking about.

**Mr O'Brien**—The other aspect of case law is that the particular social group and the question of whether homosexual claims fall within that category has been the subject of some consideration by the High Court, and there is a relevant case from the High Court.

**Mr Lynch**—We will provide the bio data on Professor Kristen Walker. She is at the University of Melbourne and she is the author of recent articles in the *International Journal of Refugee Law* entitled, 'Sexuality and refugee status in Australia.'

**Senator BARNETT**—You will provide the details on notice?

**Mr Lynch**—We will indeed.

**Senator NETTLE**—I have a follow-on question. When you were describing the aspects of the training you talked about the use of country information in support. Can you expand a little bit more on that, please?

**Mrs Urquhart**—Yes. The tribunals have a country research section. Members can have certain issues researched for them there as part of their preparation for a case or for a hearing. There are certain countries where homosexuals are persecuted. There is quite a lot of information available about that through the country research system. Ensuring that you make best use of the country information that is available and having the research done or doing it yourself is one of the aspects to consider in the total question.

**CHAIR**—We do not appear to have any more questions for you. Thank you to the MRT and RRT for your appearance here today.

[9.39 am]

#### **Department of Immigration and Citizenship**

**CHAIR**—We will now move to the Department of Immigration and Citizenship and general questions.

**Senator ELLISON**—Firstly, just some housekeeping. There were some questions on notice from Senator Minchin dealing with how many staff in each department and agency. Those questions went on to deal with programs. I understand that the committee received that and that has been relayed to the minister. Is that correct?

**CHAIR**—I understand from the committee secretary that that is right.



**Senator ELLISON**—Were those questions taken on notice or are the answers available today?

**Mr Metcalfe**—We have seen Senator Minchin's letter and, to the extent we can answer any issues this morning, we will; otherwise, we will take those matters on notice.

**Senator ELLISON**—You might have to take this on notice too, but can I ask how many appointments have been made by you, Minister, since your appointment as minister, and what extant vacancies there are at the moment in relation to appointments.

**Senator Chris Evans**—I have just confirmed with the secretary I have made no statutory appointments and there are no vacancies currently up for consideration. You would be aware I made the appointment of the reference group on the 457s, but that is not a statutory appointment.

**Senator ELLISON**—No. Minister, can I refer you to the remarks of former Leader of the Opposition Kim Beazley in his address to the Sydney Institute on 4 August 2005. He said:

We must have a Royal Commission into the functioning of Immigration.

Subsequently, former shadow minister for immigration Tony Burke said on 9 February 2006 that the opposition wanted a royal commission into a number of cases dealing with detention and the department of immigration—I think you also included the minister or former ministers in that as well. It was quite a wide-ranging reference. After hearing the very positive opening remarks from Mr Metcalfe, I would just inquire as to whether it is still the government's policy to have a royal commission.

**Senator Chris Evans**—You would be aware that there was no election commitment to a royal commission into the department of immigration. I think most of those commentaries were made in relation to the very serious concern over the reports of the handling of the Vivian Solon and Cornelia Rau cases. Certainly, the Labor opposition pushed for a royal commission rather than the adoption of the Comrie and Palmer reports and the approach the government took. But during the election we did not seek to call a royal commission into the immigration department, if you like. Some events have moved on, so there will be no royal commission.

**Senator ELLISON**—So it is fair to say then that the government is satisfied with the progress being made by the department of immigration, as outlined by Mr Metcalfe.

**Senator Chris Evans**—I would chose my own words in relation to that matter. I am pleased to see that the department is taking seriously the Comrie and Palmer reports and is looking to implement them. It has been in close engagement with both the Ombudsman and HREOC, and I have indicated to both those offices that I am keen for that to continue. But I think the secretary would concede that cultural change is a long and fraught process that requires commitment over a long period of time. The commitment from the senior officers is there, but we are some way away from getting the sort of cultural change that is required. But I am convinced that the department has made significant progress. I am pleased that progress is occurring but it will need to continue to be driven. It is probably best described as a work in progress.

**Senator ELLISON**—In relation to the funding of the portfolio, I refer you to page 22 of the department's annual report. Has the department finalised the increases to its funding with the Department of Finance and Deregulation, as outlined on page 22 of the report?

**Mr Metcalfe**—The previous government in the pre-election fiscal outlook document provided additional resources to the department as a result of the so-called reconciliation process for our funding agreement. I will just describe that briefly. A large amount of the department's funding is determined by a formula agreed with the Department of Finance and Deregulation—and, indeed, agreed by the previous cabinet—which provides certain funding to the department, depending upon certain levels of activity—how many visas are being considered and so on.

The reconciliation of activity that actually occurred during the 2006-07 financial year occurred after the completion of that year. Thus the previous government provided to the department—and publicised that through the PEFO document—a sum of around \$44 million. That is now reflected in the additional estimates that are before this committee. The net result of that is that the department's overall financial position at the end of the last financial year was a very small surplus. Originally we reported a loss of around \$40 million, but with the reconciliation pursuant to our funding agreement we ended up with a very slight surplus, which is a good result after what had been a very busy year. Since that time, there have been a number of other initiatives, both by the previous government and by this government, which are reflected now in the additional estimates.

**Senator ELLISON**—Minister, the government has mentioned efficiency dividends. It has made some comment on that. What is the effect on the Department of Immigration and Citizenship in relation to that?

**Senator Chris Evans**—Those matters will be finally determined as part of the budget process. As you know, the Minister for Finance and Deregulation, Mr Tanner, is taking a very thorough review of all government spending and has indicated on behalf of the government there will be significant savings sought from all departments. I think we, like all the other departments, will be subject to his inquiries. We will be dealing with those in a constructive manner, but I do want to put on the record my concern about the actual way the department is funded. I think the sort of arrangements you just discussed with the secretary are not the proper way to fund a department and I think Finance are coming to that same view. Senator Minchin has made remarks to me—without breaching confidences—of his concern about the way it is funded. I am not talking about the total of funding, but the process seems to me a bit unsatisfactory. Certainly in terms of efficiency dividends and potential savings in the portfolio, that is a matter of active consideration in the lead-up to the budget. As you would be aware as a former minister, Senator Ellison, one engages with the finance department in a constructive manner and hopes that they do not take too big an axe to you.

**Senator ELLISON**—I fully appreciate that; I know it only too well.

**Senator TROOD**—Minister, do I take it from your answer that the department has yet to make any decisions as to how it might meet the efficiency dividends that are expected of it?

**Mr Metcalfe**—I might answer that, Senator. The efficiency dividend is one of a whole series of factors in our financial position this year and, indeed, next year. As far as this year is

concerned, I mentioned earlier to Senator Ellison the reconciliation of the previous year which occurred. That also had an effect of not only addressing last year's financial shortfall but providing additional funds for this year.

The previous government decided that the resource agreement was not working satisfactorily and agreed that there should be an agency health check and financial health check of the department's funding. That is now underway. Indeed the interim results of that are reflected in some of the measures in the additional estimates bills. The concluded work of that agency health check will be contained in the budget itself later this year.

That is a long way of me saying that we believe that our overall financial situation this year, with the various ons and the various offs, is quite sustainable. However, next year the impact of forecast salary rises, which were agreed last year as part of the collective agreement, together with the efficiency dividend mean that our financial position will be tighter.

At this stage we do not have particular decisions in place as to how we would meet that particular series of savings. I would prefer to address that in detail as part of the budget process. Of course, with the final results of the agency health check becoming available in that process, I do not yet have a good fix on what next year's budget is likely to be. It remains for budget/cabinet to consider those issues. So, at the moment, we are confident that the overall resourcing of the department—including the pre-existing efficiency dividend, plus the additional two per cent—is manageable, but next year's situation is something we will obviously review as part of the budget process.

**Senator TROOD**—So do I take it that you are hopeful the health check will provide a different foundation for funding at least parts of the department's activities?

**Mr Metcalfe**—Yes.

**Senator TROOD**—And that that will provide a more secure foundation for funding ahead in the next two or three years?

**Mr Metcalfe**—That is certainly the expectation that both we and the Department of Finance and Deregulation are working towards. I think everyone has the objective of ensuring that we are properly funded to run an efficient series of arrangements at what is, of course, a time of rising activity levels. The minister mentioned, just before, the government's decision to increase the number of skilled migration places this financial year—that is, over the next four months—by 6,000 places. That is something that the resourcing agreement needs to cater for and to contemplate—and it will.

One of the other areas that I have hopes for is that we would have a reconciliation process happening not just at the end of the financial year but during the financial year, perhaps at the midway point, because resourcing levels tied to activity levels become somewhat unpredictable if you only get a reconciliation after you have done the work. It essentially forces the department to make estimates and to go into deficit to meet real activity, in the hope and expectation that additional moneys will be provided after that work has been done. Something that the health check has focused on is an arrangement of ensuring that we can have additional resources provided—or, I suspect, in a time of declining activity, resources

taken away—at various stages through the year rather than simply waiting until the end of that year.

**Senator BARNETT**—Has this ever been done before—having a health check as you have described?

**Mr Metcalfe**—Yes, it has.

**Senator BARNETT**—Can you enlighten us?

**Mr Metcalfe**—As far as I recall, the last health check done to this department was in 2004, but I think there have been health checks undertaken of other departments from time to time, essentially where there is a view reached by the minister for finance and the portfolio minister that the ongoing funding arrangements for that particular agency no longer remain appropriate—they may have been based upon work levels or assumptions that have now been overtaken by events.

**Senator Chris Evans**—Senator Barnett, this is a decision of the previous government which I strongly support.

**Senator BARNETT**—I am sure. At the last estimates we were going through this. I was just searching for the figures, but I seem to recall that there was a considerable overspend by the department. Is that one of the reasons for the health check?

**Mr Metcalfe**—I think that at the time of the last estimates I indicated that the department was forecast to overspend. If I recall my evidence, our estimates at that time—in May last year—were that we would overspend by around \$50 million. That was subject of course to the application of the reconciliation process that occurs after the end of the financial year, as I just mentioned to Senator Ellison. As it turned out, the department's actual overspend last financial year, as at 30 June, was \$40 million. So we were successful in significantly reining in expenditure. But the application of the reconciliation process of actual activity meant that we were given funds for the previous financial year of \$44 million, and that was reflected by the previous government in the PEFO document.

In other words, I knew in about August or September, after the reconciliation process had been completed, that we in fact had underspent by around \$4 million last financial year. That is a very good result given the very high activity levels and the changing circumstances that we faced in the last couple of years. I think that the secretary of the department of finance and I came to the view, as did the ministers, that that type of uncertainty made it very difficult for the department to properly plan and administer its finance, and a review of the 2004 funding agreement through an agency health check was an appropriate thing to do. That health check was commissioned towards the end of last year.

**Senator BARNETT**—I have been looking at the portfolio additional estimate statements for this financial year and page 14 states:

- increasing the Efficiency Dividend by 0.25% per year from 2008-09 to 2010-11 announced in the 2007-08 MYEFO, plus a further one-off 2% Efficiency Dividend, resulting in savings of \$92.1 million over four years to 2010-11;

What are the ramifications for the department? How will it affect staff numbers? What specific programs will be axed or reformed as a result of your efforts to meet the efficiency dividend?

**Mr Metcalfe**—That particular extract that you read from page 14 is one of 12 dot points which explain the various measures contained in the additional estimate statements. The first six dot points relate to additional resourcing and the second six relate to savings. As I said earlier to Senator Ellison, the net result of those changes this year is that we are quite confident that our financial position is sustainable and that we will be able to meet the government's program objectives properly without the need for redundancies or other savings to occur. In those 12 dot points, you have a summary of, essentially, the ons and offs that have occurred since the last budget.

As far as next year and the out years are concerned, it is not simply the application of the efficiency dividend which needs to be taken into account—this is where really I think we could properly continue this discussion in the budget estimates in a couple of months time; there are issues which the government may wish to consider which would give additional new policy funding to the department. That is an issue that the government may wish to consider. The government of course may look for other areas of savings as well through the budget process. That is quite normal.

**Senator BARNETT**—So you do not envisage any particular programs or redundancies at this stage?

**Mr Metcalfe**—At this stage, no. I was about to say that the final results of the health check process are to be taken into account in the budget process. So the efficiency dividend needs to be factored into the overall resourcing of the organisation together with any new policy or savings that are taken through the budget process. As far as this year is concerned, we believe that we will be able to continue to operate the department, but ensuring we do so prudently, effectively and efficiently. That is certainly something I am very mindful of. As far as next year and the out years are concerned, that is something we should probably discuss next time round.

**Senator BARNETT**—Sure. The reason I ask is that yesterday a range of agencies and departments indicated to us that they envisaged cutting back in overheads, travel and miscellaneous areas, and they indicated a few programs and so on. That is the reason for the question. A two per cent efficiency dividend is a big cut and \$92 million is a lot of money.

**Mr Metcalfe**—I agree. Coming on top of 1½, it is a significant amount. As I said before, we also have already agreed pay rises and other issues to take into account in framing next year's budget. Because of our particular circumstances, which I suspect may not be unique but are probably unusual compared to other agencies, the agency health check and increased activity levels—we are running record-level programs in relation to migration, students, visitors and so on at the moment—it is simply too early for me to say what that might mean in specific measures next year, apart from the fact that we have been tightening our belts very substantially for a period of time and will continue to tighten our belts and make whatever efficiencies we can.

**Senator ELLISON**—You mentioned in your opening statement that considerable progress was needed in IT, records management, further enhancements to training, and advancing the outcomes from the community care pilot. These are areas you identified as needing further

work. How confident are you that that can be progressed when the government has stated that this sort of efficiency dividend has to take place?

**Senator Chris Evans**—Perhaps I could take the first part of that question, Senator Ellison, and the secretary may want to add some comments. It is a priority of mine, and it will be a priority of the government, to work on that program, so that will not be the focus of savings.

**Mr Metcalfe**—I will not say anything more.

**Senator ELLISON**—That is good. I will remember that in May.

**Senator Chris Evans**—We are making savings from a huge advertising budget, Senator Ellison, and that will be helpful.

**Senator ELLISON**—We will come to that later, I think. On page 236 of the annual report you talk about Australian workplace agreements. It says:

AWAs are used as a method to encourage and recognise excellent performance in departmental employees and attract and retain high quality employees (including those with specialist skills), employees who perform their duties in remote localities or employees who have additional responsibilities. AWAs can also be used to tailor employment conditions to achieve a balance between the specific needs or circumstances of individual employees and the department's operational requirements.

That is quite a glowing report in relation to the use of AWAs. Is the department currently able to employ staff on Australian workplace agreements?

**Mr Metcalfe**—We are not offering any new workplace agreements.

**Senator ELLISON**—How will the department ensure that it maintains employee retention and continues to attract the best and brightest, if I can put it that way, if it has not got the AWAs to provide it with that flexibility, as outlined at page 236 of your report?

**Mr Metcalfe**—We will use the mechanisms available to us that are provided for by the government. We are absolutely in no different position than any other public sector organisation from that point of view. Clearly we will take advice and work very closely with the Department of Education, Employment and Workplace Relations on the most appropriate employment conditions. I do note that the vast majority of departmental staff were employed pursuant to a collective agreement that was reached. There were relatively few numbers of AWAs in this particular department but, where variations from the collective agreement might be necessary or other arrangements appropriate, we will take advice on that from the Department of Education, Employment and Workplace Relations.

**Senator ELLISON**—What about the situation where someone is under an AWA and others are not, and you are not going to use AWAs in the future: how can the department ensure that there is not a discrepancy—that is, that one employee is not worse off than the other? How do you get around that?

**Senator Chris Evans**—That was the feature of the AWA system, Senator Ellison, that people were on different sets of conditions and that some had their conditions undermined by the use of AWAs. This department had the majority of its employees under collective agreements. I am not sure whether you were one of the cabinet members who did not understand how Work Choices was going to cut wages and conditions or not. The point the

secretary was making was that the majority of Immigration employees, while your government was in power, were under a collective agreement. I do not quite understand your point about being concerned about different conditions, given that was the system you promoted.

**Senator ELLISON**—I will just point the minister again to page 236 of his own department's annual report, where there is a statement in relation to AWAs which states very clearly the benefits of AWAs and the benefits to employees. It is not a question of those under the AWAs being worse off; they are better off than their colleagues—that is the question I am asking. From the report we have before us, that is the clear implication.

It states there, on AWAs, that they have the flexibility and are a means 'to encourage and recognise excellent performance'. Now that suggests very strongly that AWAs are providing a benefit. I am concerned that, if you take them away, the others who do not have them—or those who are employed in the future—might not be employed on as advantageous conditions as those under AWAs. That is the purpose of my question.

**Senator Chris Evans**—If you look at the table—I am not sure if it is table 93 or 94 that best reflects the total—you will see the numbers of AWAs have been very small inside the department. They seem to be concentrated very much at the upper end. One of the concerns this government has is about the problems of wage restraint inside the Public Service. As I have said to you before, the majority of workers working for the immigration department are employed under the collective agreement. That was the situation you were given. I would also point out that this is the annual report for the year 2006-07—the period of the previous government. It is true that I tabled the report—because the previous minister had failed to meet his obligations to table the report on time. It had been stuck in his office. But it is essentially his report for the period of the previous government. The secretary has advised you that the government has taken a decision that no more AWAs will be offered, and the department will be following that policy.

**Senator ELLISON**—I accept that that is the government policy, but in that report it says:

AWAs can also be used to tailor employment conditions to achieve a balance between the specific needs or circumstances of individual employees and the department's operational requirements.

Looking to the future, you have remote locations which are mentioned there; you have got a variety of conditions in difficult circumstances, I would suggest, in some areas. It is not for one moment suggested that AWAs are in the majority, but there are circumstances where you need that flexibility. How do you maintain that flexibility in those circumstances where you need it? What plan does the department have to employ people in those areas? I am not saying it is across the board; it is only in those areas where you need flexibility. But, nonetheless, they are very important areas and you need that flexibility. How are you going to deal with that?

**Ms McGregor**—Your question, as I understand it, is about employees who may be in remote areas of Australia, or wherever, and how they would be treated in the future. We have flexibilities within the collective agreement, and we are also operating under the advice of the Department of Education, Employment and Workplace Relations to make available provisions under section 24(1) of the Public Service Act. That allows suitable remuneration to retain and

attract critical employees where the conditions of the collective agreement are insufficient. We have offered those in seven cases since January; five of those were for current employees and two were for employees from outside. We believe we have arrangements that will continue to attract employees and retain them in a competitive market. We are just operating within the advice and policy guidance provided by the Department of Education, Employment and Workplace Relations.

**Senator ELLISON**—I have a question on another matter: stakeholder engagement, referred to on page 11 of the annual report. The department says that one of its strategic priorities was the building of stakeholder relations. Will the department provide the committee with a copy of the central register which was developed and a copy of each of the stakeholder maps? If you have to take that on notice, I understand.

**Mr Metcalfe**—I can certainly provide you with a copy of the stakeholder map, which is a rather busy document which essentially outlines the various sectors that the department interacts with: government, non-government, international—

**Senator Chris Evans**—Senator Ellison, I accuse the secretary of having contracted Barry Jones to draw the map!

**Mr Metcalfe**—I hasten to assure you there are no lines on the map, but it is a very busy diagram. I think that may be on our department's website, but I can probably give it to you today. That is something that we update from time to time and I can easily give you a copy of the latest version.

**Senator ELLISON**—How many advisory committees does the department have?

**Mr Metcalfe**—Others will correct me if I am wrong. Again, details are published on our website. We have a number of advisory committees, or what I call consultative committees, in each of our state and territory offices to ensure that we are consulting in relation to our client service delivery. We have a number of higher level advisory committees or consultative committees, such as a regular dialogue we have in relation to humanitarian and refugee issues. We have a key consultative committee relating to detention health, the Detention Health Advisory Group. There are more senior advisory committees which have provided advice to ministers, such as the Immigration Detention Advisory Group. Within the department we have a number of governance committees with external representation. They consist of both departmental officers and external people. One good example of that is the Values and Standards Committee, which I established to specifically provide advice and input to, and monitoring of, the department's cultural change program. That is chaired by Ms McGregor, the deputy secretary, but includes representatives from the Public Service Commission and the Ombudsman's office as well as two community members, both former senior public servants of impeccable standing. If you would like, I could give you a list of those committees, but again I think you will probably find they are on the public record.

**Senator ELLISON**—Yes, if you could provide the membership of the committees and also the remuneration or terms of expiry.

**Mr Metcalfe**—Just to clarify: I can give you information on the various consultative committees and advisory committees that we have and details in relation to those internal



governance committees where there might be external representation. Many of those folks are not remunerated. Where they are remunerated we will give you advice as to what that is.

**Senator ELLISON**—Thank you. Madam Chair, I have a number of questions here which I will place on notice in relation to transitional arrangements.

**Senator Chris Evans**—The transitional arrangements for what, sorry?

**Senator ELLISON**—Dealing with costs of, firstly, setting up the minister's office—what staff the department has provided to the minister; the date of the first signed and returned brief to the minister; details of the delivery of safe hand documents, who they were received by and whether they were security cleared; the cost breakdown of the media-monitoring services available to the minister's office; and the cost of the changeover in relation to websites, letterhead and things of that nature. I think that about covers it. Also there was a shift of the minister's office from its original location under the former government to the current one.

**Senator Chris Evans**—That is not right. I took up the office of the Leader of the Government in the Senate that Senator Minchin previously held in accordance with longstanding practice.

**Senator ELLISON**—Okay. That is fine.

**Senator Chris Evans**—I might note that it is smaller than the office of the Leader of the Opposition in the Senate, and Senator Minchin is very pleased with that part of the move, anyway—it is the only bit that he is pleased with.

**Senator ELLISON**—I think it was more the design than anything else. Anyway, those are the questions on notice that I want to place. I have one final question, which relates more to the staff of the department. I have become aware that the staff is actively involved in community and charity works. Mr Metcalfe, is that something that the department takes a keen interest in cultivating?

**Mr Metcalfe**—Yes, it is. It has always happened, but something that I have sought to promote over the last 2½ years is a reinvigoration of social clubs within the department, not only to build good spirit among people but also to provide a charitable focus. We have got behind a number of causes over the last couple of years. Some have been personally embarrassing for some of us. If you want to sponsor me to have my hair cut off next month, you are very welcome to, Madame Chair and members of the committee. All members of the committee are very welcome to join in that annual celebration and fundraising.

**Senator Chris Evans**—I would pay for that not to happen.

**Mr Metcalfe**—We can have a bidding war here. Seriously, it is something that I am very proud of. Department staff have raised many tens of thousands of dollars.

**Senator ELLISON**—Maybe that is something that should be the subject of more positive reporting in relation to the department.

**Mr Metcalfe**—We try to get that, and occasionally there is local interest around that. One little feature that we are very proud of is something that has been underway for many years: the department's support for the blood donation challenge here in the ACT and indeed around Australia. It is run by the Red Cross. It is run at a corporate and public sector level. For the

last couple of years, the department has essentially donated more blood than any other organisation, including many bigger ones, such as Defence and Centrelink. My counterpart from the health department is very keen that she overtake us, and they fell just short this year, so that has given us an incentive to do even better over the coming year. Staff from the department in Canberra alone made over 1,000 donations to the Red Cross, which was something that made a huge difference.

**Senator ELLISON**—Well done.

**Senator BARNETT**—Congratulations, Mr Metcalfe. That is excellent.

**CHAIR**—Mr Metcalfe, did you just admit that you are having your head shaved for—

**Mr Metcalfe**—There are two donations going here. The minister is prepared to pay money for it not to happen.

**CHAIR**—I would opt for colouring it instead, I would have to say.

**Senator Chris Evans**—Can you imagine being briefed at eight o'clock in the morning by a bald Andrew Metcalfe?

**CHAIR**—I am just a bit concerned that it might not grow back.

**Mr Metcalfe**—It has happened before, Senator. In fact, if you look on the internet you will find some fairly scary photos.

**CHAIR**—Sorry, I am taking a bit of liberty here, and I apologise.

**Senator MARSHALL**—Mr Metcalfe, did your department provide a media-monitoring service to the previous minister?

**Mr Metcalfe**—Yes.

**Senator MARSHALL**—I understand that Mr Andrews was appointed to his portfolio in January 2007. Can you give me the cost of the media monitoring from then to the end of the 2006-07 financial year?

**Mr Metcalfe**—I will ask the relevant officer to come forward. Let me look quickly at this document. I have some figures here but they do not precisely answer the question that you have asked, so it may be best if I take that particular question on notice to provide you with an accurate figure. The reason that I do not have that is that we had a change of ministers and assistant ministers or parliamentary secretaries through the year and the figures that I have are largely 2006-07 figures which would include components for both Senator Vanstone and Mr Robb as well as Mr Andrews and Ms Gambaro. I then have separate figures again for the second half of the financial year. I may through the course of this morning be able to come up with a figure that meets the request that you have made.

**Senator MARSHALL**—What did the service encompass?

**Mr Metcalfe**—Essentially, it is a media-monitoring process where both the department and the minister's office are alerted to items that occur in the print or electronic media that may relate to portfolio issues. They are then able to request either copies of those articles or transcripts of electronic media.

**Senator MARSHALL**—Have you got some figures from 1 July 2007 through to November?

**Mr Metcalfe**—No, I do not. I would have to again disaggregate what I have. I have got figures from 1 July 2007 to 31 January 2008, but of course that would include a component for the new minister and parliamentary secretary.

**Senator MARSHALL**—Do you keep these figures on a monthly basis?

**Mr Metcalfe**—Yes. That is why we would be able to disaggregate them, if that is what the question is.

**Senator MARSHALL**—I would rather you not take this on notice if you can get the figures for me today. I am happy for you to respond later in the morning if you can. If you could give me the figures from January last year, when Mr Andrews took up his portfolio, right through to November last year—the figures for each of those months—I would appreciate it.

**Mr Metcalfe**—So to put it simply: you are after the media-monitoring costs for Mr Andrews during his term as minister?

**Senator MARSHALL**—Yes, on a monthly basis.

**Mr Metcalfe**—I will take that on notice now, but I expect we will be able to come back today and let you know the information.

**Senator MARSHALL**—Thank you.

**Senator ELLISON**—Mr Metcalfe, are you aware of an article in the *Sun-Herald* dealing with media-monitoring costs for Mr Andrews in the sum of \$134,000?

**Mr Metcalfe**—I saw that article.

**Senator ELLISON**—I understand it was incorrect. Is that your recollection of the article?

**Mr Metcalfe**—I will have to check on that. I think that, essentially, that article and the information that Senator Marshall has just asked for may be the same issues.

**Senator ELLISON**—Perhaps you could get back to us on that, but I understand that that report was incorrect.

**Senator MARSHALL**—We will see.

**Senator NETTLE**—I will start with the issue of cultural change that you talked about, Minister. I understand the process has been going on from Palmer and Comrie, but has there been any additional element to ensure the cultural change within the Department of Immigration and Citizenship since the new government has come in?

**Senator Chris Evans**—I suppose the way I answer that is to say that, in my long experience of the last 11 weeks, I have been trying to tackle a range of issues, and that is one that is high on the agenda. I have taken the approach of actually trying to understand what has occurred, who is doing what and then making assessments about any changes in direction. So I have not made any decisions in relation to cultural change other than that Mr Metcalfe continues to advise me that he is driving that and also that I have briefed senior officers on the sort of approach the Rudd Labor government wants to take, and that we want to restore the

reputation of the immigration department and restore public confidence in the integrity of the department.

As I say, Immigration is the great nation-building department of state. There is no question that its reputation has been severely damaged in recent years, and we need to set about righting that. That will take time. One key component of that is the cultural change identified as being required, so I am very committed to the process. We have not made what you would call major changes in direction, but we will continue to monitor it and look for ways of lifting the effort.

I have in the last two weeks had discussions with the Ombudsman and HREOC about those issues and sought their advice on those matters and how we might continue that progress. I indicated to both of them that I welcome their ongoing engagement. The department welcomes it as well. They are a useful sounding board and source of advice and we will continue to engage them closely. It is a work in progress and, as I say, I am confident that change is being driven by the secretary and the senior officers. But I do not underestimate how difficult that is. It takes a long time to change culture. It is easily said, but victory is not easily claimed. I am glad the committee is going to continue to take an interest, as will I, and we will just see how it goes.

**Senator NETTLE**—Thanks, Minister. You said you had talked with senior staff about the sorts of changes that the new government wanted to lift the reputation. Can you expand anymore on that?

**Senator Chris Evans**—There are two major aspects I have been focusing on. As I indicated in the opening address, the first is restoring our reputation for fair and proper and legal dealing with people seeking asylum in this country: that we maintain very strong border controls but that we seek to ensure people are treated fairly and that there is public confidence in the immigration system and the treatment of asylum seekers. The other focus has been on looking to restore the public confidence in the integrity of, in particular, our temporary skilled migration scheme, where there has been a lot of concern about abuse, underpayment and exploitation of those coming in and concern that they may be undermining local employment conditions. The Rudd Labor government is very committed to an ongoing skilled migration program, both permanent and temporary. But the key to retaining public confidence in those schemes is ensuring the integrity of those schemes. I think it is fair to say the previous government began to respond to concerns in the latter half of last year, but I think a lot more needs to be done. I am putting a lot of effort and the department is putting a lot of effort into that. So they are the two, if you like, priorities that I have been focusing on in the last couple of months.

**Senator NETTLE**—Thank you. I might move now to financial matters. I understand, and it is in the portfolio budget statement, that there was a blow-out in costs for the IT program Systems for People. I wonder if anybody could explain that.

**Mr Correll**—At the end of last financial year, in work on the major IT systems development program called the Systems for People program, we had at that stage experienced in the first year of the program an increase of just over 20 per cent in the IT labour costs on the program. We also had some concerns with the estimated capital funding

for the program in the second year. We raised those concerns in about June last year with the department of finance and suggested that there be an independent review of the funding requirements for the program. That review was undertaken and as a result, as documented on page 14 of the additional estimates statements, the department has been allocated additional resourcing of \$24.8 million this financial year in addition to having a bring-forward of \$20 million from 2009-10 to address a combination of what we considered to be an error in the forward estimate and a growth in the labour costs of the program.

**Senator NETTLE**—What does that make the total cost of the program?

**Mr Correll**—Up to that point the total cost of the program was \$495 million over four years, so that additional \$24.8 million funding makes the program at around \$520 million.

**CHAIR**—We will take a break now and resume with general questions.

**Proceedings suspended from 10.29 am to 10.46 am**

**CHAIR**—Order! We might resume the committee hearing.

**Mr Metcalfe**—Earlier, before morning tea, Senator Ellison asked me for information about the department's key stakeholders. I indicated that we had a very informative document that outlined the various sectors and the key people with whom we consult regularly. I have copies of that that I could table and provide to the committee if you would like me to.

**CHAIR**—Thank you.

**Senator ELLISON**—That is the register, is it—the noodle nation document?

**Mr Metcalfe**—What I have is the document, as you are about to see, which essentially lists the organisations with whom we have a major relationship. Sometimes that is by sector as opposed to by individual organisation.

**Senator ELLISON**—So it is both of those documents that I requested: the register of stakeholders and the—

**Senator Chris Evans**—Do not look at it too long, Senator. You will get dizzy.

**Mr Metcalfe**—This is not a register of stakeholders. It does not provide names and addresses, for example. What the document provides you with is the sorts of people, industry sectors, organisations or government departments with whom we regularly consult. Separately, if you are asking for a list of those stakeholders, we do have mailing lists, but I am not quite sure if that is what you are asking me for. I would probably have to take that on notice if you are after the latter document.

**Senator ELLISON**—I have a register here which outline the various bodies, but I take it the mailing list would simply be the mailing list for these bodies—there would not be any extra entities in the mailing list, would there?

**Mr Metcalfe**—Some of the bodies referred to in this document are simply a name of a group as opposed to individuals within that group. For example, we mention service panels, audit services or, within the industry segment at about two o'clock on that diagram, transport and education, so that is obviously sectors as opposed to individual groups that we may consult with.

**Senator ELLISON**—Having regard to that then, could I ask you take that on notice, please, and supply us with the mailing list?

**Mr Metcalfe**—I will take that on notice and we will see if that is possible.

**CHAIR**—I want to know why the legal and constitutional committee is not deadset in the middle of the circle.

**Mr Metcalfe**—That is a mistake by my staff, Senator, and I will fix it immediately.

**Senator Chris Evans**—It is because it was unnecessary to list it. It was at the centre of Mr Metcalfe's universe and did not need listing.

**CHAIR**—We now have general questions; we will finish with Senator Nettle's questioning.

**Senator NETTLE**—I want to ask you about the cancellation of Dr Haneef's visa. Yesterday the Commissioner of the Australian Federal Police made some comments about an email that was sent from the Australian Federal Police to the immigration department at the time, actually on the day, when Dr Haneef's bail hearing was taking place in Queensland. Could you tell us when the department or the minister's office first considered cancelling Dr Haneef's visa?

**Mr Correll**—The first communication to the minister's office in relation to visa cancellation options was on 9 July 2007.

**Senator NETTLE**—Was that a communication from the department?

**Mr Correll**—Yes.

**Senator NETTLE**—Is that when the minister was briefed on options or is that something that happened later?

**Mr Correll**—No, that was advice on visa cancellation options.

**Senator NETTLE**—When was the minister briefed on visa cancellations?

**Mr Correll**—I just have to check our time line very carefully.

**Senator NETTLE**—No worries. Perhaps you could run us through that time line. That might be an easier way to do it, if you like.

**Mr Correll**—There was an initial brief to the office on 9 July, a subsequent brief on 13 July and that was in turn updated with further information on 16 July.

**Senator NETTLE**—Are there any other aspects of the time line that you can advise?

**Mr Correll**—In relation to advice from the department to the minister's office, they were the key dates.

**Senator NETTLE**—Can you tell us about the size of the brief and the supporting documents provided to Minister Andrews about the cancellation of Dr Haneef's visa? I ask that because, at the time, Minister Andrews made a number of comments about the size of the brief and the supporting documents he received.

**Mr Correll**—The brief in relation to cancellation would have included the report from the Australian Federal Police, and that would have been a substantial document. Together with that, there was a full issues paper as well as part of the brief.

**Senator NETTLE**—When did the minister make the decision about the cancellation?

**Mr Correll**—That occurred on 16 July.

**Senator NETTLE**—Were there any requests from other agencies in relation to the timing of the minister's decision about the visa cancellation?

**Mr Correll**—Not that I am aware of.

**Senator NETTLE**—Would you be able to check that for me?

**Mr Correll**—We have no record of any contact from other agencies.

**Senator NETTLE**—I want to know what departments or agencies were involved in the preparation of the brief for the minister. You mentioned the Australian Federal Police. Were there any others involved in the preparation of that brief?

**Mr Correll**—No. The key agency was the Australian Federal Police in providing a report which formed obviously a very key part of the brief.

**Ms O'Connell**—The AFP provided a significant amount of material that was part of the brief in the issues paper. The issues paper itself was prepared by the department. We would have sought legal advice, so perhaps the Australian Government Solicitor would have seen that. To my knowledge, we did not involve other departments in the preparation of that issues paper material, but certainly significant material was provided by the AFP.

**Senator NETTLE**—At which of the three meetings was the significant brief and the issues paper provided to the minister? You mentioned meetings on 9, 13, and 16 July; which one was the substantial documentation related to?

**Mr Correll**—The initial brief went forward on 13 July, which included the issues paper at that time, and then updated material was provided on 16 July.

**Senator NETTLE**—Were ASIO involved in any information for those briefs?

**Mr Correll**—There was nothing other than standard, routine input from ASIO. No specific material or documentation from ASIO was involved in the brief.

**Senator NETTLE**—They are all the questions I have on that issue but I have some more general questions. I will move on to the Cornelia Rau case and the compensation that the minister mentions. It is good to see, finally, that we may see some action. Cornelia has been writing to me about when this is going to happen, so that is good to see. I wanted to ask about the government's legal costs associated with the Cornelia Rau and also the Vivian Solon matters. Are there figures that we could get for the government's legal costs associated with those two matters?

**Mr Metcalfe**—I suspect that we will need to take those on notice, but I will just check to see whether we have any information available. I am advised that costs on neither of those matters have yet been finalised. It might be something that you could ask us down the track. In relation to Ms Alvarez, of course, although the settlement occurred some time ago there is

still an issue of the taxation of costs or the precise identification of the costs from her legal representatives. That is an issue that is still being settled. Until that is known the precise costs to the government are unable to be known.

With Ms Rau, of course, I agree it is a very welcome development. We are very pleased that we have now got to that position. But, again, that matter is not yet finalised, as the minister indicated earlier. I think it needs to go to the Supreme Court because she is legally represented. So we would be able to provide details, but I suspect we cannot provide final details for a little while yet. If I could beg your indulgence, you may like to ask us again at the next estimates and we might be able to have a response at that stage.

**Senator NETTLE**—Could you take the question on notice so that if there is response before then we could get it? Otherwise I will pursue it then.

**Mr Metcalfe**—I will take it on notice and we will answer it. I suspect that we will not have a final answer by the reporting time for estimates, so it may either be a late answer or it might be advice that we cannot finalise the answer when we come back here.

**Senator NETTLE**—Maybe you could do the cost to date for the Solon case, because that will be the bulk of the cost, I would imagine.

**Mr Metcalfe**—I will give you the best information that we can.

**Senator NETTLE**—With the Rau case, just from media reports and some discussions that we have had here, I understand that GSL are being countersued by the government. Is that still the case in relation to the Rau matter?

**Mr Metcalfe**—I will ask Mr Eyers, who is the head of our litigation branch, to join us, Senator.

**Mr Eyers**—Yes, there is a cross-claim against GSL by the Commonwealth. GSL have also cross-claimed against the Queensland government.

**Senator NETTLE**—That is ongoing, is it? Where is that up to?

**Mr Eyers**—That is ongoing. Despite the settlement with Ms Rau, the cross-claims will need to be finalised.

**Senator NETTLE**—That leads me to a question to the minister. I note that the Labor Party policy is about detention centres being managed by the public sector. Could you give us any update on any movement that has happened in that arena?

**Senator Chris Evans**—As you know, the tenders for the renewing of the contract had been underway under the previous government and they are fairly well advanced. Currently I am considering how we handle that matter—whether we continue with the renewal of the contract or not, given the stage of negotiations and the costs already incurred. I hope to be in a position to make a decision about that very shortly.

**Senator NETTLE**—For the tenders that have gone out, what time period is the contract for?

**Senator Chris Evans**—It is a five-year new contract. It has been advertised, tenders have been called and there have been a whole range of processes. I think Mr Metcalfe can help you with the detail, but the process has been extended as a result.



**Mr Metcalfe**—Yes, it is fair to say that we are well advanced. We are at the evaluation stage and, as the minister alluded to, this has been a very expensive exercise. It is a very complex series of contracts and a great deal of effort has been put into getting us to the stage that we are currently at.

**Senator NETTLE**—I note there is a contract between Health Services Australia and the Department of Immigration and Citizenship which runs until 2012 on the list of government contracts. Is that intended to remain in place and are there penalties associated with the breaking of the contract, or indeed of other contracts, were the government to make a decision to do so?

**Mr Metcalfe**—If I can clarify, we have contractual arrangements with Health Services Australia for essentially vetting visa applicants in relation to health issues. And, of course, we have arrangements in relation to health services for detainees. Is there one particular contract you are referring to?

**Senator NETTLE**—The one I am looking at looks like it might not be for detainees. It says ‘division of migration and temporary entry’. It is for \$140 million.

**Mr Metcalfe**—Sorry, Senator. I think we now have the right officer at the table. Could you ask us the question again?

**Senator NETTLE**—It was about whether that contract is going to remain in place until that period and if there are any penalties associated with any change of government policy in relation to it.

**Mr Parsons**—There was a contract that ran last year which selected Health Services Australia as the successful tenderer to provide that health vetting service that Mr Metcalfe referred to. My understanding is that that contract will run the advertised course.

**Mr Metcalfe**—There is certainly no change of government policy. The new government certainly believes that people should be subject to health checking if they are coming to Australia to live here, work here or come into classroom situations or whatever.

**Senator NETTLE**—Yes. It is about that being done by a private company, but I note the comments we had earlier were about detention services. With the detention centre contracts, were the government to make a decision in line with the Labor policy about them being publicly operated, are there penalties associated with the contracts, say, if you needed to break a contract in order to make that decision of the government?

**Senator Chris Evans**—That is part of the whole issue. A great deal of expense has already been incurred in terms of the renewal of the contract by the Commonwealth and by the tenderers, and there are issues of compensation, as we are seeing with other tender processes. So I am trying to weigh all that up at the moment and the government will make a decision shortly. As I said, we have a situation in which the process is a long way down the track, it is a judgement call for government and we will make it shortly.

**Senator NETTLE**—Minister, you mentioned in your opening statement the compensation for the 247, of which Cornelia Rau is one. Can we get an update on those others of the 247? Last time in the estimates hearings I asked about which of those 247 had been provided with information about their compensation cases. At the time of the last estimates it was three. I

have an answer to a question on notice but it is only an update until June 2007. Are there any updates about which of those other 247 have been contacted about compensation?

**Senator Chris Evans**—Before the officer replies to your question, let me say that there are two issues. One is the settlement of their immigration issues and the second is the settlement of the compensation issues. I have asked the department for advice as to how we might seek to resolve all of those as quickly as possible. One of the things I am learning as a new minister is that such things do not happen nearly as quickly as one would like. There is always a reason—a good reason—that sometimes slows these things. But I am anxious to resolve these issues both for those 247 people and for the department. It is important that we deal with those issues and move on and look to provide a professional service with integrity. The department has obviously learnt from some of those lessons. Clearly, dealing with those cases, getting them off the department's back, if you like, and also allowing those people to move on with their lives is very much a priority. But there are two issues: the compensation, to which you refer, and some of them have outstanding immigration and visa issues. I am keen to resolve those as well.

**Senator NETTLE**—Thanks, Minister.

**Mr Eyers**—Letters have been sent to 141 individuals advising them of the department's review of their case. They are all the individuals for whom the department currently has addresses.

**Senator NETTLE**—Is that letter in relation to the finalisation of their immigration status or compensation?

**Mr Eyers**—The letters advise them that the department is undertaking a review of their case and will be contacting them further with further details as the matters progress.

**Senator NETTLE**—I note the Ombudsman's report into these matters goes through a number of those cases. One of the cases in the Ombudsman's report is referred to as Mr E. He is a detainee whom I have met on several occasions, and other members of the committee have met with him as well. He contacted me upon receiving the letter that has gone out to everyone. He was concerned because he is one of those cases that falls into the 'other' legal issues section of the Ombudsman's report. He came as a refugee and had section 501 applied to him. He is one of those cases that have an outstanding deportation order. I know that the Ombudsman recommended that those cases involving people with outstanding deportation orders be resolved. Can you give us any update on how many people are in that circumstance, that is, who have an outstanding deportation order on them, and how that is being resolved?

**Mr Correll**—Of the original 247 people involved here, 75 have an unresolved immigration status at the present stage. There are 27 on bridging visas and 26 on temporary visas. There are five with character concerns.

**Senator NETTLE**—The Mr E described in the Ombudsman's report has on several occasions submitted information about his case to the department. I understand and welcome the idea of doing the review but why was it necessary for a person to resubmit all their personal information as part of that review?

**Ms O'Connell**—I cannot answer in relation to that specific case and what it was that he was asked to submit. I will follow up and find out what it is that he has been asked to submit. The minister's opening comments on this matter were that he is going to have a look at all of those cases, and that will include these cases with a character concern.

**Senator NETTLE**—I have a copy of it here. It looks like a pretty standard personal details form which goes on for several pages. It is just about their name and all of that information which I would have thought would have already been something that the department had.

**Ms O'Connell**—It was probably along the lines of requesting an update of personal information in case there were some changes—for example, address changes. With hindsight it may well have been better to have pre-populated the form with the information that we already held in relation to that person when asking for an update. But I am happy to take that on notice and find out.

**Senator CHRIS EVANS**—I have not seen the form, but there are often changes in, say, the number of children and all those sorts of things which then impact on the case. I accept your point but I would also want to make sure that the department had the very latest information.

**Senator NETTLE**—This is a question to the minister: the Ombudsman's report into the use of 501 had a recommendation which suggested legislative reform to section 501 of the act so that it did not capture long-term Australian residents. The Ombudsman's recommendation was to bring that in line with section 200 of the act. The previous government did not respond to that recommendation. Does the new government have an attitude in relation to that particular recommendation?

**Senator Chris Evans**—On coming to government I sought to review all ministerial powers. I have commissioned a report from Elizabeth Proust seeking a fresh set of eyes in addition to departmental advice on the use of ministerial powers. The figures I received when I entered the portfolio indicate that there has been a substantial increase in the use of ministerial powers, and I want to understand why and whether that is appropriate. I also reread the joint committee inquiry report. I think some very useful contributions were made. The report was largely ignored, I understand, by the previous government but I do think there is some valuable work in that. I am giving some consideration to the idea of whether we might involve that committee in some further work on some of those issues. I am meeting with the new chair of the joint committee tomorrow—I think—to discuss those issues.

In a general sense I have formed the view that I have too much power. The act is unlike any act I have seen in terms of the power given to the minister to make decisions about individual cases. I am uncomfortable with that not just because of a concern about playing God but also because of the lack of transparency and accountability for those ministerial decisions, the lack in some cases of any appeal rights against those decisions and the fact that what I thought was to be a power that was to be used in rare cases has become very much the norm. There is an industry in appealing to the Minister for Immigration and Citizenship, I have noticed. I am in the process of changing my email address as a result—not that they will not be processed. But there is a real sense of the appeal to the minister becoming very much part of the process.

Rather than being a check on the system it has become institutionalised. Anyway, I have received that report from Elizabeth Proust and I am considering that at the moment.

I do want to engage with other members of parliament about this, because it is an issue that the parliament has been keenly aware of over the years. The section 501 powers to which you refer are part of that review I am doing in my mind about how we handle those things. It is the case that those cases are very difficult considerations. Mr Correll has been helping me with these issues in recent times, and he has aged about 10 years, I think, as a result. They are very difficult issues of balancing rights of children, criminal history and time in the country. There is the famous case of Mr Jovicic, who was deported when he had no language skills in his home country. These are really difficult issues and you have got to balance the protection of the community and the rights of individuals and their families. I have no easy solutions to these issues, other than that I am engaged in how we resolve those and what guidance we provide to the department and what the role of the minister is. I am afraid this is an unsatisfactory answer, in a sense, but I am wrestling with those issues at the moment.

**Senator NETTLE**—You mentioned the various inquiries that this committee and other committees have been involved in. I would like to ask you about three recommendations from when this committee did an inquiry into the Migration Act. One of them related to work rights for people on bridging visa E. The committee recommended that all holders of bridging visa class E should be given work rights. Does the government have a response to that recommendation?

**Senator Chris Evans**—That is one of the issues that is under active consideration at the moment. That is one of the things I wanted to be briefed on. I have sought advice from the department and I have given them some feedback, and we are getting more advice. I am not trying to not answer your question, but I have not made a decision. It is one of the live issues. As part of a new government, we are basically looking at all those issues that have been raised in the public debate and by committees. That is one we are focusing on. There are a lot of focus on. There are a lot of legacy issues. That clearly is one, and we are doing work on that. We will come to a position. I think that might be months away rather than days, but it is an issue I am focused on.

**Senator NETTLE**—I will ask you about two other recommendations from the committee. One goes to a matter you probably touched on a little bit already, in terms of the ministerial interventions. The Senate committee recommended that the system of complementary protection be established, and there have been various discussions and debates and models for that. Is that a recommendation or an area on which the new government has formed a view yet?

**Senator Chris Evans**—It is one of the issues I am considering, and I guess the indication is that I am favourably disposed to looking at how we might advance that agenda.

**Senator NETTLE**—The other recommendation I want to ask you about was to do with the 45-day rule and the denial of work rights for people who do not make an application within that 45 days. The committee recommendation—I think it is Labor policy as well—was about overturning that 45-day rule. I wonder how that one is going.

**Senator Chris Evans**—All I can say about that is that I realise how damn complex it is and how difficult it is going to be to resolve. I have a clear appreciation of the difficulty of it and I am open to solutions. But again that is one of the issues I have asked for advice on and it is on the agenda. I think there is a real potential in that area to have unintended consequences. It is on the agenda as well, but no decisions have been taken.

**Senator NETTLE**—Another question that I often ask at these estimates is about the issue of climate refugees. I have asked about what work the department has done. I note there has been an answer to a question—

**Senator ELLISON**—Sorry to intervene, but a lot of the questions that Senator Nettle has been asking have related to special output groups. The last one, I think, was 1.4, and now we are moving on to climate change refugees. I just inquire as to whether Senator Nettle is getting all the questions that she has today off the books, so to speak, so that she can go to another committee. That is fine, but, if we are drilling down into specific output groups now, I would rather get general questions out of the way and then go through in order of the output groups.

**Senator NETTLE**—I am happy to do that. I am not sure that there is an output for climate refugees so why don't I continue with that and then I am happy to go to outputs, as Senator Ellison suggested.

**Senator CHRIS EVANS**—Can I just support Senator Ellison's remarks. The Senate Standing Committee on Finance and Public Administration and the PM&C portfolio yesterday turned into quite a shemozzle as senators all had a free go. I know that they are keen to learn the ropes of opposition, but I do not think it actually helped them because we jumped all over the place. To be honest, it relieves pressure on the ministers, so I am quite happy to proceed on that basis if you like, but it does not make for a very effective use of time. The other thing that I would point out is that in terms of officers being available and planning their days, it means that they are either all stuck here or you will find that some of them have gone home. I am happy to answer in any order, but a bit more discipline will probably serve the committee better.

**CHAIR**—Sometimes senators actually ask general cross portfolio questions. Could I ask you, Mr Metcalfe, to let us know if a question is better targeted at a specific output when that question is asked and we will defer that question until that time? I know that officers have expertise that they need to bring to the table.

**Mr Metcalfe**—Thank you. I certainly will do that. Although there is no precise output, because we have no programs for climate change refugees, we do have output 1.2, which talks about refugee and humanitarian issues. That is quite a broad area and is where we would probably normally expect to have that conversation.

**CHAIR**—Have we finished general questions?

**Senator TROOD**—I have one general question. It will not take long, Minister!

**Senator Chris Evans**—As I say, I am relaxed about it.

**Senator TROOD**—There is provision in the budget statements in relation to the negotiation of the Chinese and Japanese free trade agreements and some adjustment in the

department's contribution. I just want to clarify the nature of the department's commitment to those agreements and whether or not that reflects an allocation of funds that is contributing to the negotiation process or, more particularly, whether or not it reflects the fact that the department is actually contributing some of its officers to the process of negotiation. Could you just clarify that please?

**Mr Metcalfe**—It is more the former, I think. Essentially the issue of interest to us is in relation to any discussions that might be reached in relation to movement of natural persons, particularly whether or not there should be any limitations upon the Australian government relating to people who might be coming here as skilled workers, for example. So it fits into that broad area. We have had a role in working with the Department of Foreign Affairs and Trade. They are the lead negotiators on that issue, and the budget measure is basically to say that we should absorb the costs of us doing that work, which we will.

**Senator TROOD**—There is a saving of \$73,000 and \$229,000 mentioned in the statement. Is that the total of the funding that you had allocated to this purpose or is this a reduction in the overall amount?

**Mr Metcalfe**—It is a saving of the amount that we would have otherwise spent, so essentially we are absorbing the amount—we are absorbing the work.

**Senator BARNETT**—The minister referred to the Cornelia Rau matter in his opening statements. I would like to ask one question about that relating to the co-defendant, GSL. Can the minister provide the committee with a status report on that particular matter? I have been advised that there is litigation at foot. Obviously I do not want to go to any matters that are sub judice but, to the extent that you can, can you report to the committee on GSL? Are they likely to be countersued by the government and are you seeking compensation or part compensation from them to pay the compensation to Ms Rau?

**Senator Chris Evans**—Thanks, Senator Barnett. I think it is best that Mr Eyers answer that question. I find that in these matters I am advised to say nothing about anything, which I find frustrating. Therefore, I think I had best leave it to the officer. I am not involved in the detail of that anyway, so Mr Eyers is the best man to answer that.

**Mr Eyers**—GSL have been cross-claimed against by the Commonwealth. They were not directly sued by Ms Rau, so they have been joined to the proceedings by the Commonwealth and we are continuing to proceed against them. The matter comes back before the court on 6 March. We will be seeking contribution from them towards the damages that will be payable to Ms Rau.

**Senator BARNETT**—Can you advise the extent of that contribution?

**Mr Eyers**—At this stage it is at large. It will be a matter for the court to determine.

**Senator BARNETT**—The minister in his opening statement said that he was hopeful of a resolution in the near future regarding compensation with Ms Rau and then said there had been an 'increased offer', and there have been reports about that in today's media. So, in terms of the counterclaim, you on behalf of the government would be seeking as much as possible from GSL in terms of that compensation amount?

**Mr Eyers**—That is correct.

**Mr Metcalfe**—I do not think we would necessarily say ‘as much as possible’. I think we would say we are seeking a fair and reasonable amount in terms of their liability. I think Mr Eyers said earlier that there is a further cross-claim in relation to the state of Queensland, where she was originally detained. There was a little bit of litigation to play out but essentially, as the minister indicated earlier, the Commonwealth have made an offer to Ms Rau which we are very pleased she has accepted. That is an issue between the Commonwealth and Ms Rau. We are now working with other parties to essentially seek contributions to that compensation amount.

**Senator BARNETT**—Just to confirm or clarify—she has accepted the offer. Is that what you just said, Mr Metcalfe?

**Senator Chris Evans**—The terms we were advised to use, and to say no more than, on legal advice were that Cornelia Rau’s lawyers have communicated to the Commonwealth and they have accepted an offer of compensation on her behalf. The terms of settlement remain to be finalised and must be approved by the Supreme Court, in the proceedings on 16 March, as I understand. It has been beaten into me that I am not allowed to say any more, on legal advice, because it might prejudice the Commonwealth’s position.

**CHAIR**—Before we move to outcome 1 and output 1.1, I have received advice from the Clerk of the Senate, Harry Evans, relating to disclosure of legal advice. That arises from the committee’s determinations yesterday. With the approval of the committee, I table this advice.

[11.28 am]

**CHAIR**—We will now move to outcome 1, output 1.1, Migration and temporary entry.

**Senator ELLISON**—I have a series of questions on population policy. I note that the ALP national platform at page 221 states:

The system of setting immigration targets year by year without any underlying rationale or long-term policy framework has contributed to declining public confidence in the program. Moving to long-term planning will achieve greater stability and confidence.

Has the minister begun work on a new population policy and will that involve setting immigration levels on an annual basis or will it be a long-term goal-setting arrangement?

**Senator Chris Evans**—Senator Ellison, the ALP platform does commit us to pursuing a population policy. Government is giving active consideration to that platform item. As you probably are aware, I have been consulting around the country on next year’s migration program, and those consultations are ongoing. But, there has been a real mood and opinion, from business in particular, of the need for a longer-term planning cycle in migration matters. I think there is a frustration at the ad hoc nature of the current planning system, and concern that they want to deal with issues like workforce need over a longer period. I think you will find, from the report of the Chamber of Commerce and Industry in Western Australia and others, that there has been a lot of work done on these issues. The government is currently considering its position in relation to those matters.

The actual program settings for 2008-09 will have to be made by cabinet, in accordance with the normal process, by about April this year, so that will go ahead in the normal way. But, we are giving active consideration to how we might bring some longer-term planning and

some more context to the individual year programs. That is one of the things government is considering. It is not widely understood that your government was a very large migration government and that the rate of migration increased significantly under your government. I do not take any objection to that, but I think the rate of increase in migration and in temporary visas is not widely understood.

I am told by the departmental secretary that 500,000 people of working age enter Australia each year. So it is a huge program—to use Mr Hughes's phrase: 'The taps are on full at the moment.' We have a huge migration program, both permanent and temporary. I think it would be useful if we put that in some sort of broader context, rather than just annual decision making. But, as I say, the government decision about exactly how we do that, or how we progress those matters, has not been made.

**Senator ELLISON**—You may need to take this on notice. Could I please have a list of those people who have been consulted and where you have been in relation to the consultations.

**Senator Chris Evans**—I have done Melbourne, Sydney and Perth, Senator Ellison. I think the others have been done by the parliamentary secretary or officers. You would understand that, since the election at the end of November, the period for consultation has been contracted, so I am seeking to do as much as I can. I have come to the view that former Minister Ruddock used to do a broader consultation, that was scaled back a bit under successive ministers, and while I am not sure I will go as far as former Minister Ruddock did—which was a travelling roadshow, as I understand it, of quite some duration—I think there is a case for a broader consultation next year. I am happy to provide you with the details of those consultations.

**Senator ELLISON**—And those by the parliamentary secretary and others as well?

**Senator Chris Evans**—Yes. The complete list.

**Senator ELLISON**—Will the department be involved in the Prime Minister's 2020 summit?

**Senator Chris Evans**—I, as a cabinet minister, will. Certainly, the department will be providing advice to me. I am not sure—and I will take this on notice, Senator Ellison—what the proposal is in relation to senior departmental officers. I thought I saw some reportage of that, but I want to check. Certainly, the cabinet ministers have been requested to attend and will do so happily, but as to departmental engagement—apart from briefing myself and others—I am not sure, and I will get back to you.

**Senator ELLISON**—One of the other things mentioned in the ALP platform was the question of incentives to newly arrived migrants to settle in regional areas. It stated:

Such programs would only occur with the support of local government, business and community groups.

What sort of incentives will now be provided in those circumstances and what work has been done in that regard?

**Senator Chris Evans**—Is this in terms of refugees or economic migrants?



**Senator ELLISON**—It says ‘newly arrived migrants’. I am quoting from the ALP national platform. I think it was referring to general migration, but I cannot find the exact reference at this time.

**Senator Chris Evans**—Perhaps I can help you. In terms of the refugee settlements, that is something that is handled by the parliamentary secretary, but I think you are looking more at the policy in relation to migrants more generally. The Labor Party, like the previous government, is keen to look at ways of encouraging people to move to regional areas where there are employment opportunities and demand for labour. There is an ongoing consultation with state and territory governments on how that is to be achieved. I think there is a political consensus to try to make that happen. There is ongoing work in the department to advance that. That will form part of the migration program process and cabinet submission.

I might point out that in the announcement the other day on working holiday visas I actually extended the concession to encourage more of them to work in regional Australia. I extended that to the construction industry. It is true to say that the initiative of the previous government to provide the capacity for them to extend their holiday visas to a second year is starting to be taken up at quite an encouraging rate. I think that will grow as a measure. But the actual settlement issues or the incentives are ongoing work that will be picked up as part of the migration program.

**Senator ELLISON**—I might add, that relates to general migration. So you are saying that you will be looking at incentives applying across the board. Have you specified working holidays, temporary and permanents—

**Senator Chris Evans**—Students.

**Senator ELLISON**—So this regional incentive would apply across all of those?

**Senator Chris Evans**—There is a major structural problem in terms of labour supply in Australia currently. We have low levels of unemployment but we have huge demand for labour in particular sectors of the economy in particular states. Part of the challenge for government, as with the previous government, is to try to work out ways to attract labour to the particular areas in need and what levers one can pull to try to do that. That is part of our ongoing consideration of the migration program. As you know, there has been a reaction from some in the Sydney area who are saying that there ought to be some sort of active discouragement of people moving to just the big cities and that we have got to find ways of moving them to areas in need—

**Senator BARNETT**—Hear hear!

**Senator Chris Evans**—including Tasmania, Senator Barnett, but also to the economic driver of the Australian economy, Western Australia.

**Senator BARNETT**—Especially Tasmania.

**Senator ELLISON**—I take it then that you would agree with the comment by the Western Australian chamber of commerce that skilled migration is extremely important, especially in Western Australia.

**Senator Chris Evans**—Yes, it is. They attended my consultation in Perth the other day, and Ms Willmott made a contribution as part of their submission. I have read their report from last year, which I thought was a very useful contribution to the debate.

**Senator ELLISON**—In relation to the government's previous skilled migration policy, Professor Sue Richardson, on *Life Matters*, Radio National, on 20 April 2004 said:

I think Australia's actually got an excellent migration program, evaluated in terms of its value to Australia's residents ...

Similarly, Deborah Cobb-Clark in *Selection policy and the labour market outcomes of new immigrants*, November 2004, said:

Overall Australian selection policy was largely successful in selecting immigrants whose skills led them to be more inclined to seek out employment, while changes in labour market conditions and income-support policy over the intervening period contributed to making them more likely to get it.

Would you agree that the skilled migration program has been working well for Australia?

**Senator Chris Evans**—My assessment of the skilled migration program is that it has been working hard to meet the demand. It is fair to say it has not met all the demand in recent years, given the strong growth. It is also the Rudd Labor government's analysis that we have failed to invest enough in education and skills to equip our own workforce, our own Australian citizens, to meet the challenges of the skill requirements of industry.

There are two main ways of bringing people with skills in to assist in the development of the economy. One is the permanent program. As you know, I announced the other day the cabinet decision to increase for this financial year the number of skilled migrants by 6,000. That builds on the 5,000 increase the previous government announced for that financial year. That brings to 11,000 the increase over the previous year. I would not describe it, as some have, as a drop in the ocean, given it is more than the total applied by the previous government for the whole year, in terms of an increase. But it was what we were capable of doing in the short time frame available—the last three or four months of this year—and it will make a contribution.

The other means is the temporary skilled migration program. As you would be aware, Senator Ellison, that is uncapped. That has been uncapped and therefore responds to employer demand. There has been extraordinary growth in 457 visas in recent years. I am keen to see that temporary skilled migration program continue to be utilised to meet the short-term skill needs of the Australian economy as well as seeing a major investment in the education and skills of our own people. But it is true to say—and I think the previous government recognised—that there are problems with the integrity of the scheme. There are issues of abuse of the scheme which need to be tackled to retain public confidence in the 457 temporary skilled migration program. You have got to be able to prove to people that it has integrity, that it is not undermining Australian wages and conditions, that people are not being exploited and that it is a robust scheme with integrity. I am taking a number of measures to try to address those issues and I will have more to say on that in the future.

As you know, the previous government, late in its term, implemented a number of measures to try to address its concerns about the integrity of the scheme. In addition to those integrity issues, I announced the 457 reference group the other day, with three highly qualified

members of the business community, to look at the skills needs of business, to provide me with advice on how we meet those skills needs, not just in the short term but in the longer term. Part of that is to identify what those skills needs are going to be. One of the things that has struck me since coming to government is the paucity of good information on skills needs, either out of my department or out of the employment area. I am keen to develop a capacity in that regard. That 457 working group will give us a good feel for the emerging skills needs of industry, and options for how we meet them. So it is a multipronged approach, but we are committed to a strong skills migration program. The government will consider in April the 2008-09 program and I am looking forward to the support of the opposition in maintaining a strong skills migration program.

**Senator ELLISON**—If we can take it in two parts: the skilled migration program dealing with it in a permanent capacity, and the other one in the temporary area, which is the 457 visa. Firstly, would you agree with the Chamber of Commerce and Industry in its human capital paper that in Western Australia alone it is expected there will be a shortfall of 150,000 workers by 2017 and that any increase of skilled migration has to take into account that sort of demand, which is not going to be met locally? With all the training in the world and the increased fertility rates you are not going to meet it in that time. The permanent skilled migration is a slower process, if you like, than bringing in people who are needed for a specific task and then they go home. So, firstly, would you agree with those figures from the chamber of commerce? Secondly, is the government going to maintain the trend of the previous government which took skilled migration as a component of the overall program of migration, as I understand it, from 30 per cent to 70 per cent? Is it the intention of this government to maintain that?

**Senator Chris Evans**—First of all, I am not going to necessarily endorse the CCI figure, and that is no offence to them. I have seen a number of figures, Senator Ellison, and, to be honest, I am not in a position to judge which one is right. In the sense that they point to a huge and growing demand for labour over the coming years, I agree. It is a point made very strongly by the Premier of Western Australia, Mr Alan Carpenter, who has spoken to me about this issue on a number of occasions. As I say, I do not want to comment on the exact figures or projections—there are a number of different figures floating around—but the underlying argument is correct. in my view.

I was speaking to BHP executives on Friday, and the sort of expansions that BHP, Rio and other major companies are planning will require huge numbers of workers. They will obviously, by paying high wages, attract workers but that may leave skill shortages in other industries. I think it is true that there is going to be a need for increased skills. I do not downplay the role of investment in education in skills in our own economy. There are still untapped sources of labour and still a lot of Australians who are underskilled and who could be trained to meet some of the skills demands, so it is a very big focus of the Rudd Labor government.

Fertility? I am not sure how that is going to go, given we have lost Treasurer Costello, who was largely responsible, as I understand it, for the fertility increases in the Australian population. And on your question about the percentage of skilled to other migrants, I am not going to endorse the figures that you quoted in terms of the current skill mix.

**Senator ELLISON**—We can ask the secretary if that is right. Under the previous government—from when it came to government up to the election—in round terms, 30 per cent of the total program was skilled and it finished up at 70 per cent.

**Mr Metcalfe**—Just on that point—and I will correct this if I am wrong—I think that the proportion was around 66 per cent. It was about one-third family migration and about two-thirds skilled or business migration.

**Senator ELLISON**—And it started at around 30 per cent skilled.

**Mr Metcalfe**—I think that the balance was certainly less than that around 10 years ago. There is a key issue in migration program management, of course, and that is that many skilled migrants themselves come to Australia as young single people and then marry people from overseas, and so we have seen considerable pressures on the migration program.

Indeed, last year the previous government increased the number of spouse places previously allocated by, from memory, about 4,000 because of the fact that more skilled migrants ultimately means more family migrants. So there will always be an issue for the government, regardless of which party is in power, that ensuring high skill levels means that they remain a high proportion because of the chain migration factors that naturally emerge because people have family and they use entitlements to be reunited with them.

**Senator ELLISON**—On that basis, I have a question to the minister. The factual basis of the question is a sound one. Is it the intention of the Rudd government to continue growth in the skilled area in those proportions that were previously pursued by the previous government?

**Senator Chris Evans**—You are asking whether I am going to continue with the same proportions that the previous government used. Not necessarily. That is a decision for cabinet in framing the 2008-09 program. That is the answer to that particular question. I make the other point that the proportion has changed over the years as the economic needs and situation of Australia have changed. You clearly do not run a high skilled migration program at a time of high unemployment. You cut your cloth according to the economy's needs. But it is true that under your government you ran a massive migration program. You were a large migration government. As a result of that, there was a large increase in migration across most programs but a huge increase in skilled migration. As you know, in recent years, by use of the 457 visas in particular, there has been enormous growth.

We intend to continue with a policy of strong skilled migration to meet the demands and needs of industry. The proportions of that are a decision for cabinet in our first opportunity to frame those issues, which is the 2008-09 budget. But an indication of my attitude is that in addition to the 5,000 extra places for general skilled migration that your government undertook to provide in 2007-08, this government has added another 6,000 to be brought on before the end of the financial year to try and bring forward permanent skilled migration in what are quite large numbers. The reason that it was 6,000 is that we took the view, on advice from the department, that that was about the maximum that we could process and bring forward in that time period. The proportions and the numbers for next year will be determined by the cabinet in its deliberations on the 2008-09 migration program.

**Senator ELLISON**—In relation to that long-term policy framework which is mentioned in the ALP national platform, have any initiatives been considered in relation to bringing about a secure environment for companies to plan ahead to meet future skill shortages? You say in the platform that we have to plan ahead long term. I understand that. What about providing for companies who are trying to plan for the future as well? We have two issues here: the temporary situation, the immediate situation; and then the long-term situation. In our home state of Western Australia we have long-term projects and people are looking well into the future. Have any initiatives been considered for companies who want to do that long-term planning?

**Senator Chris Evans**—I can indicate that, as you would be aware, Senator Ellison, under the previous government there was no long-term program. It was purely an annual thing. I have expressed to you that my personal view and the view of the ALP platform is that we need to get a longer term framework in place. That is important. In the short term, given that we were elected at the end of November, we will, in the same way as has been done over many years, be going with an annual migration program for 2008-09. But, if you look at the terms of reference for the reference group on the 457 visa that I announced the other day, that is exactly front and centre of those terms of reference. What are the needs of industry? What are the labour and skill demands that industry is going to have? How do we as a community meet those?

It is a very important issue in Western Australia and Queensland, but also more generally. Senator Vanstone used to remind me on numerous occasions when she was the minister that the largest employer of 457 visas—I am not sure if it is still the case—was the New South Wales health system. So it is not purely a problem of our state, Senator Ellison, although you and I are both focused on it. Health workforce issues, as you well know, are a massive issue for us. They have been up until recently—and I think still are—the largest users of the 457 visa system. So it is across the economy. The reason the reference group is important is that, as business and employer groups say to me, part of the problem is the international competition for labour. We are in a very competitive international market. We live in a much smaller world. People choose whether to work in Canada, America, Europe or Asia, and we compete. A number of companies make the point to me that it is a very competitive market for engineering and other skills and that the solutions are not necessarily in the levers of government; they are in some broader issues. But I am very focused on the issue. I think the 457 reference group will provide us with good advice, and their report to us will be taken into consideration as part of the planning for the 2008-09 program and obviously beyond.

**Senator ELLISON**—When you say ‘457’, do you mean that the reference group will only be looking at 457 visas and will not be going beyond to look at permanent skilled migration?

**Senator Chris Evans**—That is the major focus. I am not going to try and limit them in the advice they provide. They have the terms of reference; they are public. But, for instance, there is an argument now about 456s which are more short term, which are referred to now as 456½s. They are in the temporary skilled migration program. So, while we all tend to use the term ‘457s’ to cover a range of visa classes, I am interested in what we can do to deal with more short-term measures, such as refits et cetera in the mining industry, where they want to bring people in for three months et cetera. I think some of the provisions may be a little

restrictive. Those are the sorts of things they may well pick up on as well. They are certainly the sorts of things that the business community have been raising with me in the consultations on the program.

**Senator ELLISON**—Still on permanent migration, the Labor platform says:

Labor supports ... streamlining of the permanent migration program and ensures that existing temporary skilled migrants who are seeking permanent residency and who meet the required tests can have their permanency applications processed expeditiously.

What work is being done to put that into effect?

**Senator Chris Evans**—One of the key issues the department is working on is how to speed up approval times. It is a topic of conversation with business, and there is already significant movement from the temporary visa class to the permanent visa class. I am sure one of the departmental officers, probably Mr Parsons, could help you with the figures, but I know Mr Parsons and other departmental officers have also been focused on some of these issues as to how we fast-track some of the processing times. I, in particular, am interested in some sort of accreditation system for countries with good standing to be able to fast-track their applications. That is certainly an issue in the consultations that business have been raising with me. Perhaps if Mr Parsons gave you an answer on the extent of the transition from temporary to permanent it might be helpful.

**Mr Parsons**—The figures I have here would suggest that some 40 per cent of those who were on a 457 visa four years ago—four years is the maximum duration of that visa—have translated to permanent skilled migration. Clearly, the percentage drops off when we get more recent because those people have not necessarily reached the end of their visa. The figure for four years ago is a 40 per cent translation.

**Senator ELLISON**—How would you see the accredited company arrangement the minister mentioned operating?

**Mr Parsons**—I think the minister is alluding in the general sense to a scheme where the department would recognise employers and sponsors who have impeccable credentials and a sound track record of compliance with immigration regulations, of not exploiting their workers and of not undercutting Australian job opportunities. To a large extent, I think there would be a risk based approach. We are still mulling over ideas. A crucial factor of the policy would be to ensure that, in whatever scheme we come up with, the company shared the risk with the department. By that I mean that, if we did offer some sort of accreditation or some preferential treatment to those low-risk sponsors, they would understand that, should they breach the undertakings, there would be very low tolerance for them remaining with that status.

**Senator ELLISON**—In relation to state sponsored migration, in the annual report the department states that there has been a 13.5 per cent decrease in the level of state sponsored migration. Has the department sought any advice from the states on the reason for this decline or has it any ideas as to why that has declined?

**Mr Parsons**—Without looking into it, my inclination would be that the drop-off in state sponsored migration would have been complemented by direct employer nominations. The

change in employer nominations has surged compared to last year. That would be the guess I would hazard.

**Mr Hughes**—It is worth noting that, for the first half of this financial year, 25 per cent of the skills stream has come to Australia through state or regional mechanisms. So it remains a significant part of the program. As Mr Parsons has said, though, employers directly sponsoring people also can add to the number of people going to regional areas.

**Senator ELLISON**—There does seem to have been this drop-off in state sponsored migration. I was just wondering why. If there is anything else you can add to that, could you take it on notice. I appreciate it is a complex issue. We have been talking of a mixture of skilled permanent migration and 457s. I would like to turn more to the 457 side of it. When is the new reference group due to meet, what are the terms of reference and what is the reporting date?

**Senator Chris Evans**—I thought they were released publicly at the time but if they were not—

**Senator ELLISON**—You might have the reporting date in the release.

**Senator Chris Evans**—The first reporting date is about 14 March, but that is an interim report. If the terms of reference have not been released publicly, I am happy to do so. I will get them for you, Senator Ellison.

**Senator ELLISON**—Also, will both the interim and the final report be made public?

**Senator Chris Evans**—My tendency would be to do so, but I will take that on notice and discuss it with the reference group.

**Senator ELLISON**—In the way that they will work, will they be travelling around Australia to meet with people and, without being too formal, take evidence from various stakeholders?

**Senator Chris Evans**—They certainly have that capacity. The terms of reference are clearly directed at them assessing the needs of industry, so that will be part of their program. There have been a range of processes already that they will have access to, and information, including the work of the House of Representatives committee and others on these issues and some of the COAG processes. One of the reasons that I chose the reference group personnel is their experience and knowledge in these issues, and I think they have got the contacts and experiences that will be helpful for their work. It will be a decision for them, but I would envisage them doing consultations. I do not think, given the time frames, that they will be doing formal hearings, as it were, or calling for submissions, but I am sure they will be engaged with industries and their views.

**Senator ELLISON**—The WA chamber of commerce said in its paper on human capital that while the 457 visa program is highly effective ‘it can be improved by expanding the class of worker that can be employed from overseas on a temporary basis’. Is that something that—whilst not holding you to agree to it—you would think there is some merit in looking at?

**Senator Chris Evans**—That is obviously one of the live issues that will be considered as part of the general consideration of temporary skilled migration. I know there are some areas where the demand is really for labour—one does not want to say for ‘unskilled’ labour, but

where there is a demand for labour that would not meet the current classification requirements. But, clearly, that is another set of issues that is on the table. I have not made any decisions in that regard and I think we would need to be cautious of that. We have tended to pick up some of the unskilled labour demands from things like the holiday visa program and from the capacity for students to work 20 hours a week. As part of the announcement the other day I announced extensions to the working holiday visa program. We are also currently in discussion with a range of countries about finalising reciprocal arrangements that might see the flow of working holiday visa holders in the country increase. The terms of reference of the 457 visa reference group do not particularly pick up those points; they focus on the skill demands. But, as you say, there is an increasing broader issue emerging.

**Senator ELLISON**—The class of worker relates to the skills that are required, obviously. You mentioned a review of the 457 visa back in December. Is there a separate review, as opposed to the reference group, or is the reference group the review that you foreshadowed?

**Senator Chris Evans**—In terms of any external review, the 457 reference group is the external review. It is an ongoing challenge for government. I am sure the previous ministers will advise you of that. As you know, there was a piece of legislation foreshadowed by the previous government. We are having a look at what parts of that we might look to proceed with. The previous government took a number of measures in its last months in relation to some of these issues, trying to beef up enforcement. They slapped training levies on a range of industries, some at quite short notice. I think, to be honest, some of them were a bit heavy-handed and counterproductive. My inclination is to have a lighter touch with those who are engaging professionally and with integrity and to have a much heavier touch with those who are not. The whole issue is before us all the time, Senator Ellison, on a range of fronts.

**Senator ELLISON**—Looking at the class of worker and qualification, and perhaps the secretary could assist us with this: the current situation in working out the class of worker that is needed, their skills and whether they are qualified—how is that done?

**Mr Parsons**—Depending on which migration scheme you are talking about—

**Senator ELLISON**—457.

**Mr Parsons**—There is a list of ASCO codes—Australian standard classifications of occupations—which we have adopted in policy to say that ASCOs 1 to 4 are permissible for metro 457 recruitment. In recognition of the difficulties in attracting skilled workers to more regional locations, regional employers are able to go down to ASCO 5 and 6, in addition. We work closely with the Department of Education, Employment and Workplace Relations on getting advice as to how that fits with the shortages more generally in the labour market. That is essentially what drives the policy setting for 457.

**Senator ELLISON**—What about state departments? You were talking about DEEWR, the federal department, but what role do the state governments play?

**Mr Parsons**—We have a working party with the state governments as an adjunct to the COAG process. It is in that forum that the states are able to express their views on the shape and parameters of the programs and foreshadow what they see as being pressure points for the immediate and long-term future.



**Senator ELLISON**—Is there any certification required from a state authority or minister or department in relation to qualifications?

**Mr Parsons**—For some, there are. Indeed, if we go to one extreme, if you wanted to bring in a medical 457 person then the grant of the visa is in fact conditional on a state licensing authority evidencing that the person is in fact suitable to practice their trade in that state. So in some cases there is a dependence on state accreditation of the skills before we grant the visa.

**Senator ELLISON**—So you are facing different regimes around the country in relation to doctors. For instance, it is said that Western Australia has a tighter regime than other states. Would you agree with that?

**Mr Parsons**—Western Australia, as a matter of state policy, I understand, recruits medical practitioners through the 422 visa class, not the 457. You can do it through either. The 422 visa has more stringent provisions than the 457 visa. On the various qualifications across state jurisdictions, in the case of medical people, I very much look forward to July this year, which, according to the Commonwealth state working party, is the last date for implementation of uniform medical qualifications across the Commonwealth.

**Senator ELLISON**—So that will make it a lot easier.

**Mr Parsons**—It should, yes.

**Senator ELLISON**—Was that part of the COAG review?

**Mr Parsons**—If it did not come out through the COAG review, it came out through the Commonwealth-State Working Party on Skilled Migration. As I said, my understanding from the last of those meetings was that July this year was the date for that to be implemented.

**Senator ELLISON**—Perhaps the minister is best placed to answer this. In relation to the assessment of what is needed and the qualifications involved, do you envisage any change to that? You have talked recently about having a process, which might involve trade unions, in relation to the assessment of that. What is the government's position on that?

**Senator Chris Evans**—I think that you are confusing two issues. There is the issue of the categorisation of skill level and classification. I have had some concern about that before. I remember asking Senator Vanstone questions about it in the parliament. You had classifications being used for large numbers of people to come into the country as hairdressers, for instance, and yet there were a range of other skills that were not meeting the modals. To be honest, I have been unimpressed with that general classification structure. I have had one introductory discussion with the Deputy Prime Minister about it, but it is fair to say that I have not gone down the path of doing much on that front as yet, given the other priorities. But there are some issues there.

The information about consultation did not apply to the 457 program per se; it related to the question of labour agreements which are signed off between me and the Deputy Prime Minister and employers who wish to have a labour agreement which sets a set of conditions that may be different to the normal conditions that apply. When first asked to sign off on a couple of those labour agreements—sign-off from both me and the Deputy Prime Minister is required—I asked who else had been consulted about these labour agreements before I was asked to sign off on them. I was advised that nobody had been. So there was no transparency

in the labour agreement process. This was an arrangement, a deal, cut between the department and the proposed employer without any reference to the industry body or to the trade unions or to anybody else who may have an interest in those things and without any exposure to public debate. I thought that lack of transparency was not acceptable, and I asked the department to advise those proposing the labour agreements which I had been asked to sign to go back and consult with the relevant organisations about that labour agreement before I was asked to consider it.

These labour agreements have the potential to provide concessions in a range of areas: concessions on minimum salaries, language skills and occupational skill levels. It seemed to me that if we were going to be entering into those sorts of agreements, there ought to be much greater transparency and accountability. You might recall that the previous government got itself into a bit of trouble over the Amex deal that was cut in Sydney a few years ago. There was quite a deal of controversy over that because it allowed Amex to pay the regional rate minimum salary rather than the city rate—and that was in Sydney. The regional rate is a lower rate of salary than that provided for in the metropolitan area. Certainly, at the time, Sydney was our most expensive city to live in.

I asked them to consult before bringing those agreements back to me. I understand the Department of Education, Employment and Workplace Relations already has such a process because we both have to sign off. They already do that on their side, and that was a practice under the previous government where they expect employers to demonstrate consultation with TAFE colleges, group training organisations, higher education providers and others about the training aspects. I have asked that, in future, there be some transparency about those arrangements. I am actually a supporter of labour agreements. I think they can be a useful way of codifying the practices and ensuring some certainty for employers about how we will respond to their visa applications. But I do think that those processes need to be transparent and that others in the community have a right to know what agreements are being proposed. To make it clear; that was in terms of labour agreements, not in terms of the more individual 457 applications.

**Senator ELLISON**—Let's look at labour agreements, now that you have raised that.

**Senator Chris Evans**—I am just raising it because that is the only capacity to get a lower skill level applicant in, you see.

**Senator ELLISON**—The basis of the question was the union consultation. You say the labour agreements were something struck between the private sector and the department. When that labour agreement was entered into, was the state government not a party to that?

**Mr Parsons**—In some cases they were and in some cases they were not. The most celebrated case, I think, is the long and drawn out negotiation of the Queensland meat industry labour agreement. The reason it was drawn out was, to some extent, because it became the boiler plate or the blueprint for all our industry agreements since that time. The Queensland agreement was struck with the states as a signatory and that was the position of the government at that time. Subsequent agreements have, largely in recognition of attempts to expedite the process, made state signatory optional. That was the position of the former government.

**Senator Chris Evans**—Can I also just add there that one of the reasons for the great success of the meat industry agreement negotiated by the previous government was that the previous government engaged directly with the trade union movement; the Australasian Meat Industry Employees Union, I understand. They were party to a lot of the negotiations, and as a result the agreement that the previous government achieved has been one of the more successful, and it is supported by the industry and the relevant union. It has been quite a success.

**Senator ELLISON**—How many labour agreements are in place?

**Mr Parsons**—I believe the figure is 43.

**Senator ELLISON**—I expect you will have to take this on notice: how many of those 43 agreements have state government involvement?

**Mr Parsons**—Thirteen.

**Senator ELLISON**—How many of those 43 agreements have involvement by parties other than the industry concerned and the Department of Immigration and Citizenship?

**Senator Chris Evans**—It is not necessarily the industry; it might be a single employer.

**Senator ELLISON**—Well, industry or single employer?

**Mr Parsons**—I will have to come back with that breakdown.

**Senator ELLISON**—The minister has mentioned proposed changes to labour agreements. I asked Mr Parsons about the qualification regime. You mentioned the various standards that were involved. Who sets those standards? Who says it will be ASCO 1 to 4 that applies?

**Mr Parsons**—The department sets the policy for the parameters of the 457 program in consultation and on advice from my colleagues in the Department of Education, Employment and Workplace Relations.

**Mr Metcalfe**—In reality it would be a decision taken by the Minister for Immigration and Citizenship in consultation with the Minister for Employment and Workplace Relations and possibly cabinet. It is quite a significantly serious issue as to what classification is given, so it would usually be taken at that level.

**Senator ELLISON**—When you have determined that you apply it across the board in relation to the approval of a 457 visa. So when someone applies you then look to ASCO 1 to 4 and run a ruler over it with that in mind.

**Mr Parsons**—In fact the application form itself has to describe the occupations that the person is being sought for. Part of the visa approval process for the metro areas is for the department to check the ASCO dictionary and see whether the occupation being sought is in that ASCO 1 to 4 range. If it is a regional 457 then the department also involves certification, if you like, from regional certifying bodies that look at the occupation, whether it is in the ASCO 1 to 7 range, and whether that skill can be sourced locally.

**Senator ELLISON**—Is it government policy, Minister, to do away with the regional certifying bodies?

**Senator Chris Evans**—The Labor Party has a policy to move to new bodies called registered employment authorities. We have made no moves on that at this stage.

**Senator ELLISON**—Who will constitute those bodies?

**Senator Chris Evans**—As I said, there have been no government decisions or decisions by me as minister in relation to those matters at this time. As we have found today, there are a lot of active issues inside the portfolio. I have not turned my mind to that one yet.

**Senator ELLISON**—Who makes up the regional certifying bodies at the moment?

**Mr Parsons**—Regional certifying bodies are a mixture of state and local government departments, chambers of commerce and incorporated associations. There are 60 different gazetted regional certifying bodies across Australia.

**Senator ELLISON**—It is a broad mix of government and private sector?

**Mr Parsons**—Correct.

**Senator ELLISON**—Would they also look at questions such as workplace safety?

**Mr Parsons**—Not per se. There are other government portfolios that have direct carriage of that. Regional certifying bodies are there basically to certify that the request to recruit an overseas skilled worker is in accord with the ASCO range and cannot be sourced locally—that it is a genuine requirement.

**Senator ELLISON**—We have the qualifications, but there has been an issue as to people speaking English in a work environment where English is required. Who certifies whether, for a particular job, you need that for safety purposes?

**Mr Parsons**—It is policy of this portfolio that 457 workers—and this was a decision that was enforced last year—have to reach a certain level of English language proficiency through a standard test, with a couple of exceptions for higher skilled occupations and those paid above a certain salary threshold. RCBs have nothing to do with English language.

**Senator ELLISON**—It is based on money?

**Senator Chris Evans**—There was a regulation change made by the former minister that removed that requirement for those earning over \$75,000 a year. That was a decision of Mr Andrews. One of the reasons I was concerned to make sure there was transparency in labour agreements is that labour agreements allow for negotiation for the employer to be granted concessions in relation to not only salary and occupational skill levels but also—and it has been argued in the past—English language. As you know, that is part of a huge debate and concern about safety in the mining industry in Western Australia and elsewhere. That is one of the reasons I argue we need transparency on those matters. It is part of the public debate and part of the question of the integrity of, and public confidence in, the system. This is a very difficult issue and the government responded, as you know, by passing the regulation which excused people earning over \$75,000.

One of the live questions in public policy in this area is that if you are a fly-in fly-out worker in the mining industry in the north-west of Western Australia \$75,000 is pretty well minimum salary. I know truck drivers in Kalgoorlie are getting \$80,000-odd. You therefore have the situation where, under that regulation, basically anybody working in the mining

industry in the north-west of Western Australia would be excluded from any English requirement. As you know, there was a death and certain allegations have been made about whether the health and safety of workers was jeopardised by the lack of English skills of some workers on the site. I make no comment about that; the coroner is dealing with that. Clearly, you understand that, and it has become part of the public debate. As I say, that is just one of the reasons we need some transparency in the labour agreements because that is the sort of issue that is alive now in the debate about the use of temporary labour.

**Senator ELLISON**—We have 43 labour agreements in place. What percentage of the total 457 visa intake would that constitute?

**Mr Parsons**—I will have to take that on notice.

**Senator Chris Evans**—I think the answer is that it is very, very small.

**Mr Parsons**—Yes.

**Senator ELLISON**—Labour agreements cover a small section of the 457 visas. I appreciate what the minister is saying about labour agreements but they cover a small area. I am talking about the more general application. If a 457 individual comes in and is going to be employed by a small business man, how do you run the ruler over that person to ensure that they have the right skills and that they are suitable for the job safety-wise? You mentioned the regional certifying bodies, which would play the role of ensuring there is some integrity to the process. That would be a fair summation, wouldn't it?

**Mr Parsons**—There are two parts to the answer. The first is to try to offer some reassurance, I guess, that the 457 policy does not deliver workers with inadequate English into dangerous work environments. The situation for those sorts of occupations that involve some sort of occupational risk is that typically there will be a licence required to perform the work. Electricians and plumbers come to mind. The 457 policy says, just as was the case for doctors in my previous example, that the department cannot grant a 457 visa for a worker going into an occupation that requires a licence unless there is evidence of the licence being tendered. In many cases you will find that the licensing authorities have their own English language requirements for exactly that OH&S reason. The Department of Immigration and Citizenship does not try to second-guess what the licensing authorities require by way of English language proficiency.

**Senator ELLISON**—It is all down to the licensing authority, isn't it?

**Mr Parsons**—For that particular aspect we rely on their expertise, yes.

**Senator ELLISON**—Does the question of the salary level relate only to labour agreements, or across the board?

**Mr Parsons**—There is a salary level for the standard program.

**Senator ELLISON**—The salary requirement that the minister mentioned in relation to the exemption?

**Mr Parsons**—The \$75,000 exemption was a one-size-fits-all exemption which was intended at the time to recognise the upper echelons of the skill and salary stream, with the exception of the licence and registration condition. If you are an electrician who is paid

\$100,000 a year you will not get that waiver because the licence says that you have to have a certain amount of English. We will not grant a visa until we see that licence.

**CHAIR**—We will suspend questions and break for lunch.

**Mr Metcalfe**—I have a response to the issue raised by Senator Marshall. We can deal with that now or later?

**CHAIR**—We will deal with that when we come back from lunch.

**Proceedings suspended from 12.30 pm to 1.34 pm**

**CHAIR**—Order! The committee will resume the hearing. Before we continue on output 1.1, I understand, Mr Metcalfe, you have information for us on a question from Senator Marshall.

**Mr Metcalfe**—Yes, I do, Madam Chair. Earlier this morning Senator Marshall asked me for details, by month, of the expenditure by Minister Andrews or his office in relation to media monitoring. If the committee would bear with me, I will provide those figures and provide some context around those figures.

I am advised that media monitoring provided to Minister Andrews's office, from his commencement as Minister for Immigration and Citizenship on 30 January 2007 until the change of government on 24 November 2007, comprised the following media services: Media Monitors, which provided press clippings, electronic radio and TV monitoring and, as requested, the provision of typewritten transcripts of those radio and/or TV reports; and Australian Associated Press, which provided the minister's office with a media release distribution service and access to the newswire of AAP and associated reports.

I am advised that the cost centre established within the department to monitor spending on media monitoring and distribution by Minister Andrews shows the following expenditure on a month-by-month basis: January 2007, \$1,957; February 2007, a credit of \$2,185 from Media Monitors, and I will explain the reason for that shortly; March 2007, \$9,195; April 2007, \$39,625; May 2007, \$2,730; and June 2007, \$26,619. That makes, according to the calculations I have, for the last half of the 2006-07 financial year, a total of \$77,941. I should point out, though, that it is not possible to draw an absolutely direct link between specific activity in each month because the date that invoices were paid usually involved a lag time for processing. In other words, a media monitoring may have been obtained but we received the invoice for that at a later stage and the bill was paid at that later time.

**Senator MARSHALL**—If it was paid in a later month it actually goes in the accounting for that particular month.

**Mr Metcalfe**—Precisely. There may have been, for example, a monitoring activity in the month of March which was actually invoiced and paid in the month of May and that shows up as a figure for May. It is for that reason that there is a figure there for January 2007—noting that Mr Andrews only became minister at the end of that month. I am also advised that the credit of \$2,185 from Media Monitors probably would have related to earlier miscalculations or overcharging that may have occurred prior to February 2007.

**Senator MARSHALL**—You would have got a credit from a previous minister?

**Mr Metcalfe**—Precisely—when Senator Vanstone may have been obtaining those services. I am further advised that for the current financial year—that is, commencing 1 July 2007—the cost centre established for the minister’s media monitoring and distribution shows the following expenditure: July 2007, \$2,589; August, \$27,099; September, \$23,766; October, \$24,877; November, \$33,886; December, \$19,583; and January 2008, \$1,742. Again, the figures for December and January obviously represent a lag in billing, given that the minister ceased to effectively be the minister in late November, even though Minister Evans was sworn in in very early December.

**Senator MARSHALL**—Just so I am clear on that, are you suggesting that the December figure of, roughly, \$19,500 would be attributed to Minister Andrews?

**Mr Metcalfe**—According to the information we have, the figures for both December and January that I gave you relate to expenditure incurred by the former minister, not expenditure incurred by the present minister.

**Senator MARSHALL**—Do you have a total for that?

**Mr Metcalfe**—Yes, that six months total \$133,545. That is for the seven-month period from July until January. It would be very, very difficult for us to further disaggregate the information or to try and trace it back to particular transactions. We would have to go to individual invoices, of which there would be many. But I think that gives you a picture of the quantum of the spend.

**Senator MARSHALL**—It does. Assuming there is the same sort of lag, and I understand that with different billing cycles some will double up, some months will be bigger, but some of these are not just a little bit bigger, they are massively bigger, so that must relate to some significant increase in activity. The logical thing that jumps into my mind is whether these higher bills relate to issues involving the Haneef case, for instance?

**Mr Metcalfe**—Without going to the individual invoices to see what the payment was for, I would not want to speculate. But I would note that there was quite a significant level of expenditure across the months August, September, October, November. Dr Haneef’s case was considered by the minister in July and then remained a significant issue for a period thereafter. Without having checked the individual invoices, I think it is a fair assumption that some of that media monitoring activity would have related the very significant level of media interest in Dr Haneef’s case.

**Senator MARSHALL**—For the last half of the financial year.

**Mr Metcalfe**—For the first half of the current financial year—since July last year.

**Senator MARSHALL**—It seems like a lot of money. I am not suggesting at this time that there is anything wrong necessarily with spending that money, but it does seem like a lot of money. Can you break that down? Is it the general media monitoring, the clipping service? What does that cost versus other things? It does jump around an extraordinary amount, notwithstanding what you have said. I imagine the clipping service would be a constant, month after month, so that should give some consistency. But there are some significant peaks, aren’t there? There is a massive build-up towards the election.

**Mr Metcalfe**—It is true to say that there are some months that are larger than others. There are a series of months that are quite large, and doubtless that relates to the level of media interest in portfolio issues that the minister was seeking to stay abreast of. Essentially, the media monitoring service is a service to enable the minister to be aware of what is said and to respond, as appropriate, to what is being said in the media. As I am sure you are aware, from time to time we are a fairly newsworthy portfolio, so there is significant interest. I think it is fair to say that the media and public interest in Dr Haneef was one of the more significant media stories last year in Australia.

**Senator MARSHALL**—I am not going to dwell on this for much longer, but I have one or two more questions. You mentioned the typing of transcripts of different programs—radio and TV, I suspect. Was that done on a per request basis per program or was it just that every program that had these issues was automatically typed out for the minister?

**Mr Metcalfe**—I will ask the head of our national communications branch to respond to you.

**Mr Logan**—It is on a request basis, as lodged by the minister's office, and is charged against that relevant code. It would not automatically—

**Senator MARSHALL**—The point is, did the request simply request that every program that mentioned anything to do with the portfolio was automatically typed, or was the request: 'We understand this program said this, so will you give us that'?

**Mr Logan**—When the minister's office requested a transcript, they were quite specific about which transcript. I should also note that they quite often type their own transcripts.

**Senator MARSHALL**—That is interesting to know. We will not be relying on them anymore.

**Mr Metcalfe**—It is quite routine for us to receive a summary of electronic media, so we would not have the full transcript. When a particular story ran on the ABC or Channel 9 or Channel 7, or wherever, we would be provided by Media Monitors with a very short extract and that, on occasion, would then have led to a request for a full transcript. So the costs that I have covered would include the normal monitoring as well as the more detailed transcripts that might have been requested on occasion.

**Senator MARSHALL**—So is \$77,941 for the last half of last financial year?

**Mr Metcalfe**—That is correct—noting that some of that would have probably related to expenditure by the previous minister. But then \$133,545—

**Senator MARSHALL**—You actually indicated that the February credit was probably a refund from the previous minister.

**Mr Metcalfe**—That is right. Again, the January figure would have been incurred by Senator Vanstone's office almost certainly, given that Mr Andrews was only minister for two days in January.

**Senator MARSHALL**—Sure.



**Mr Metcalfe**—I think that that establishes the first six months of the year; and then the figures for the second half of the year would have been entirely relating to Mr Andrews's office's requests.

**Senator MARSHALL**—The seven-month period which encompassed the first half of the financial year is \$133,545.

**Mr Metcalfe**—That is correct. For the December and January figures there had been a change of government, but to the extent that we were able to identify bills that related to requests made by the previous minister that is what we have sought to do.

**Senator MARSHALL**—Okay. The minister prior to Mr Andrews also had some rather newsworthy issues going on in her time.

**Mr Metcalfe**—All immigration ministers tend to, Senator.

**Senator Chris Evans**—I am trying to keep a low profile!

**Senator MARSHALL**—You will get these questions at future budget estimates, Minister Evans. How does that compare to the previous ministers' expenditure?

**Mr Metcalfe**—What Mr Logan is telling me is that it is not possible to disaggregate, prior to last year, between expenditure by the department and expenditure by the minister. I understand that the billing practice prior to the beginning of last year was essentially for the costs to be all aggregated to one cost centre, paid by the department. That would have largely covered costs of provision of that material to the department as well as provision of material to the minister. It was only in the last year or so that there was a separate cost centre for the minister. What I can say, though, as an example is that in 2005-06 the combined costs of media monitoring for the portfolio was over \$700,000.

**Senator Chris Evans**—I wish you hadn't said that—Mr Tanner is probably listening!

**Mr Metcalfe**—Again a very newsworthy year, given that that would have been the year that, for example, Ms Rau's case and Ms Alvarez's case were very much the centre of national attention.

**Senator MARSHALL**—Thank you, Mr Metcalfe.

**Mr Metcalfe**—We will hope for a quieter year this year, Senator.

**Senator ELLISON**—As you said, Mr Metcalfe, it is a portfolio which has, from time to time, its interesting moments. The expenditure of the department on media as a whole and its media centre: what is the budget for that?

**Mr Logan**—Staff costs are about \$3.26 million and operating costs are about \$900,000 in this current financial year.

**Senator ELLISON**—Has that been fairly static over the last few years?

**Mr Metcalfe**—No. We did increase the public affairs or the national communications capability of the department as one of the many responses to the Palmer and Comrie reports. That was because, as senators may well recall, the department had been the subject of some very significant and, in many cases, proper criticism. I saw it as important to have a proper capability to respond to media inquiries that were received by the department. Senator

Vanstone made it clear to me that she expected the department to have its own capability to, essentially, have a voice or a face in addition to the minister. One of the reasons that I appointed Mr Logan to the position was to take on that role of departmental spokesman, which is not something that we had routinely done in the past.

Also, we were an organisation that was going through what some people, including the Ombudsman, have described as the largest reform program to a major Commonwealth agency, probably since that for Customs following the Paramount shirts issue. There was a very significant internal communication requirement so that effectively, in promoting improved culture, change culture and strong values, we needed to have ways of reinforcing and driving those messages home in a department that is really a multinational company. We are represented in many locations overseas and we have thousands of staff. The ability to communicate strongly and effectively is an important thing. So, for both those reasons, we expanded our communications capability in the second half of 2005.

**Senator ELLISON**—Will that continue?

**Mr Metcalfe**—That certainly my expectation. Of course, like any part of the department, its role and objectives are subject to ongoing review and consideration. Obviously our budget and financial position will be part of that. No area is exempt. I certainly believe that there is a strong role for the department to play in supporting the minister of the day through handling media requests and providing advice in relation to them and in working with the media to provide the strong factual basis for its reporting. Also, as the minister and I both mentioned earlier, there is a strong ongoing reform program in the department and we need to be able to use every means at our disposal to promote the right sorts of values and culture within the organisation. I am not saying any area is subject to exemptions, but there is a strong and important role for our National Communications Branch and they do a very good job.

**Senator Chris Evans**—Can I add that, while the details of the size of the Communications Branch are subject to government decisions, I have been keen to make sure that that particular unit under Mr Logan is proactive. I think they have responded to that very positively. They are given the opportunity not to sell me but to sell the department's work and to help rebuild confidence in the department and its processes, given the difficulties of recent years. I think they do have a very central role to do that. As the secretary keeps advising me, there is good news in immigration. I think he handles the good news and I handle the bad news, is how it seems to work out! But it is important, given the Comrie and Palmer reports, that we put a lot of effort into that. I am very pleased with the work the communications unit are doing and I want them to stay proactive, but obviously that also has to be accounted for in terms of the budget. I think it is important that the department continue to play that role so I am very supportive of their efforts.

**Senator MARSHALL**—Was this service also extended to the opposition shadow minister or was it kept purely in house with the minister?

**Mr Metcalfe**—It is usually a protocol between the minister of the day and the opposition as to whether access is provided to media clippings, for example. I think that has varied from time to time.

**Senator MARSHALL**—What was the situation prior to the election?

**Mr Logan**—There was no provision.

**Mr Metcalfe**—There was no provision by the former minister to the former spokesperson.

**Senator ELLISON**—Following on from that, I understand that there was no request either from the opposition.

**Mr Metcalfe**—I am just not sure, Senator. That may be correct.

**Senator ELLISON**—It varied from portfolio to portfolio, as I understand it.

**Senator MARSHALL**—It was just a question.

**Senator ELLISON**—Can we go back to 457s?

**CHAIR**—Yes. We are doing outcome 1.1.

**Senator ELLISON**—It is 1.1 and I am jumping ahead because there is skilled migration in 1.1.1.

**Mr Metcalfe**—It is all within 1.1.

**Senator ELLISON**—I was asking Mr Parsons about qualifications and certification, and we talked about the English aspect of all of this. Minister, you were quoted in an article in the *West Australian* on 14 January this year as saying you would discuss potential changes, including English language requirements, with unions and business. Have you had those discussions in relation to the English requirements? This is in relation to those individual 457s, if I can call them that, as opposed to the labour agreements.

**Senator Chris Evans**—Yes, the majority of the discussions have actually been with business, in part through the migration program consultations. I found, on coming to office, that unions were not actually spoken to by the department and they were not invited to the migration program consultations, so the vast majority of discussions I have had so far have been with business. But, as I indicated to you earlier, I think there is a growing public policy issue around this question of English language proficiency. It is one the former minister, Mr Andrews, attempted to deal with by a couple of measures, including that exemption for people with over \$75,000 of income.

I think part of the issue—and I am going to be careful how I phrase this—is that the source countries for 457 visas are changing. Whereas some years ago they would predominantly have been from native English-speaking countries such as Great Britain and others, large numbers are now coming in under these programs from non-English-speaking countries where the workers are not native English speakers. That is creating a whole new set of problems in terms of health and safety et cetera. We are basically grappling with that. There are a large number now coming from the People's Republic of China and other nations where English is not commonly used and where the workers do not normally have very high skills in English. So it is a public policy issue we are grappling with, and you would be aware of the debates about it. It is an ongoing challenge for me and the department, and I am continually talking to people about it because it is an issue they are focusing on. As you know, in our own state of Western Australia there have been allegations linking health and safety issues to language skills, so obviously it is a really important public policy issue.

I have not taken any decisions to change any regulations or requirements at the moment. The last ones were made by Minister Andrews. There are some problems with those. These may well be issues that the 457 reference group also focuses on. It is something I am focused on as part of the normal work of the department.

**Senator ELLISON**—Which unions did you discuss this with?

**Senator Chris Evans**—I met with the ACTU for a general discussion about immigration matters. I have had a discussion with the meat industry union about their industry agreement. I am not sure that the language skills are a big feature of that. I understand most of the workers coming into the Queensland meat industry are Brazilians, who are highly regarded in the industry. I have had a general discussion with Mr Sutton, the national secretary of the CFMEU. It was raised in conversation with the Miscellaneous Workers Union on another matter. So there has not been a huge round of formal discussions with the union movement, but I have certainly met with a couple of them. And, as I said, I had a general discussion about 457s early on with the ACTU, as I did with the Business Council and a range of other organisations, to get a sense of their perspectives on them.

**Senator ELLISON**—What is the government's view on the role of unions in 457s? You mentioned the labour agreements and we have covered that, but the majority of 457s are non-labour agreements. What is the government's view of the role that unions have to play in relation to accreditation, the assessment of where the skills should lie and, generally, how acceptance or admission of people should be gained under the 457 visa program? In other words, what is the government's view on the unions' role?

**Senator Chris Evans**—The first thing to say is that there has been no policy change on 457 processing or approvals in relation to the role of unions, putting aside the labour agreement things that we talked about earlier. There are none that I have been aware of—I have just checked that the department has not done anything and certainly there is nothing I have done. So that is the first thing, that there has been no change.

There is certainly no intention to have any sort of veto over 457 approvals—they will be handled in the normal way. There is a role for the unions in the debate about the minimum salary levels and the issues of health and safety. As you know, there have been a range of problems on building sites in Sydney, with workers without English skills being exploited and not being paid appropriate conditions. I draw to your attention that under the previous government there were a range of sanctions applied because of concern about abuse of the 457. In 2005-06, three sponsors were sanctioned. In 2006-07, 95 sponsors were sanctioned. And in the year 2007-08, up to 31 December, 123 sponsors were sanctioned.

So you can see that the previous government was starting to respond to the concerns and the very public cases involved in breach of 457 conditions. So I think there is a role for unions in that debate about how we set conditions. There is obviously a role for them if people who are working on 457s wish to join unions and have them represent them, but there have been no changes to the method by which 457s are processed or approved. The involvement is part of the general community involvement in the discussion about conditions and English language. As you well know, Senator, and the point I keep stressing, is that unless we have

community support and community confidence in the integrity of the scheme, it will be under enormous pressure.

The previous government found themselves constantly embarrassed by the abuse of the 457 scheme by a minority of employers. Senator Vanstone and Mr Andrews were placed under parliamentary pressure because of those concerns. Mr Andrews did seek to respond to those concerns, particularly in the latter half of last year. My worry is that, unless we deal with those integrity issues, we will not retain public confidence in the scheme and that will then act as a barrier to employers being able to take up the economic potential and maximise their businesses. I think it is important that we build community support, and that is why I am very keen to have more transparency in the system and more accountability in the system.

**Senator MARSHALL**—I have a follow-up question in relation to the sanctions. Did the sanctions that you talked about come about as a result of direct complaints to the department, as a result of a general compliance review mechanism or a mixture of both. Maybe you could explain to me how your internal processes work in terms of quality assurance.

**Mr Parsons**—The department's monitoring of 457 grew in sophistication last year, from an original position where we tried to cover all bases—albeit very thinly—to a position where we would monitor and site visit on a risk basis. With your indulgence: the risk matrix has several dimensions to it, not least of which is the nature of the industry. Empirically, there are some industries which lend themselves—so it would seem—to greater levels of non-adherence with the guidelines for the program, or to worker exploitation. The first dimension is the nature of the industry; another dimension is the sponsor's compliance with some of their obligations—and I am thinking primarily of a survey form that the department sends out periodically. Depending on the answers, or the non-return of those forms, that is another dimension in the risk matrix. The next dimension is complaints or contact with the department, which could come from the visa holder themselves; it could come from a third party, being a friend or associate; it could come from the relevant union; or it could be a follow-up to media stories, which would guide the department's particular targeting of monitoring.

**Senator MARSHALL**—Putting all that together, you would find that risk. Would there then be a physical inspection or a phone call?

**Mr Parsons**—It depends on the nature of the concern that is uncovered. In some cases, it can be done from the office, where staff would look at material that the department already has in terms of whether we would need to go the next step for a site visit. Last year, we also introduced a notion of discretion as to whether or not the monitoring officer would make a visit without prior notice to the employer. The department's practice up until last year had been to give the employer plenty of notice that they were coming. We found that some of the less scrupulous employers would get out the second set of books and tidy things up for the department's visit.

**Senator MARSHALL**—Nothing has changed in 200 years in that respect.

**Mr Parsons**—No. So last year the notion of not necessarily extending that courtesy was added to the monitoring regime.

**Senator MARSHALL**—In terms of your process to identify risk—and therefore a follow-up or investigation or whatever you want to call it—what percentage of that resulted in non-compliance or non-adherence?

**Mr Parsons**—I can give you some statistics on the number of sites that were monitored and visited and the gross number of sanctions and formal warnings that arose.

**Senator MARSHALL**—You can give me that too, but is there a level at which you say, ‘Look, this is non-adherence, but if you fix that up it will not result in any further activity,’—or does it actually get to the point of a sanction? I accept that you get your risk profile, so the people you investigate are more likely than not to have a position where there could be non-adherence. I want to get a picture of whether, when you go out there, it is, say, 90 per cent that end up in non-adherence or is it a minute percentage.

**Ms Daniels**—The minister mentioned that in the 2006-07 financial year 95 sponsors were sanctioned. In addition, there were over 300 sponsors who were formally warned, which means that those sponsors would have had breaches of perhaps a technical nature—an inadvertent oversight or that sort of approach to the way they manage their employees—which did not lead to a formal sanction from us, but rather put them on notice that they were formally warned. In many cases those sponsors would then be scheduled for re-monitoring to ensure that they subsequently were able to meet their obligations. So those two figures would in part, I think, answer your question—95 sanctioned and 300-plus who were formally warned.

**Senator MARSHALL**—Out of how many investigations or inquiries?

**Ms Daniels**—There were about 500-plus investigations or cases brought to attention during that program year.

**Senator MARSHALL**—So more than half were in non-adherence.

**Ms Daniels**—Yes, that would represent half that case load, of a total sponsor case load of about 15,000.

**CHAIR**—On the subject of 457s, can you explain to me what the situation is with regard to the payment of the medical insurance?

**Mr Parsons**—Broadly speaking, when an employer takes on an overseas 457 temporary worker, arrangements should be made such that any cost of medical treatment does not fall to the Commonwealth. Underpinning that is the proviso that the overseas worker must not receive less than the minimum salary level, depending on where they are located, and there is a differential for IT versus the rest. If an overseas worker is paid well above the minimum salary level then it could well be that that overseas worker will be required to take out their own personal health insurance. If they are receiving closer to just the minimum required salary then the burden of that insurance or health coverage would fall to the sponsor.

**CHAIR**—So it can vary, depending upon the employment arrangements. Do you have a case where there is a minimum salary level but it is always inflated by the employer to include the cost of the medical insurance and then they deduct it, or does it vary from case to case?

**Mr Parsons**—It varies enormously. You will find that some of the breaches that Ms Daniels was referring to are where the employer pays the minimum salary and then deducts health insurance premiums, which they are not allowed to do. The minimum salary must be net of any deductions other than taxation.

**CHAIR**—But whether the employer totally pays for it or passes the cost on to the 457 visa holder varies, and there is no standard requirement. Is that right?

**Mr Parsons**—The only standard requirement is that the overseas worker must not be paid less than the minimum salary level, excluding taxation.

**CHAIR**—And either the 457 holder or the employer has to pay the medical insurance; they must have medical insurance, regardless of who pays for it. Is that correct?

**Ms Daniels**—There is an option. The employer can choose to self-insure and not take out insurance on behalf of their employees. But the fundamental point is the one that Mr Parsons made—that is, if medical costs are incurred, those medical costs are not to fall to the Commonwealth. If, as a last resort, there is no coverage for the medical costs then the employer is held responsible. But the scope of the medical costs is limited to public hospital costs.

**Senator MARSHALL**—Doesn't that lead to a situation where if potential 457 visa holders have a serious injury or accident—whether at work or otherwise—then a small employer must be self-insured or they will simply disappear.

**Ms Daniels**—The department strongly encourages employers to take out health insurance.

**Senator MARSHALL**—Is that a weakness of the system, though? Shouldn't it be compulsory? I do not want to get into the argument about who should do it. I understand what you say about the minimum wage needing to be met, but shouldn't that be one of the compulsory elements of the system?

**Ms Daniels**—It certainly has not been to date.

**Senator Chris Evans**—It is a policy issue that I am happy to take up. It is a good point.

**CHAIR**—We are still on output 1 .1.

**Senator ELLISON**—The Labor platform stated that labour market testing would occur to ensure that available Australian workers with requisite skills are offered the vacant job at the market rate. Australian workers are not displaced—that is fair enough—and local market rates and conditions are not undercut. My question to the minister is: does the minister intend to link the 457 salary to market rates of pay and, if so, how will that be achieved?

**Senator Chris Evans**—Thanks, Senator Ellison. That is a very important question. I think it is widely accepted now that the mechanism used in the current provisions is very clumsy and not necessarily the best option. There are two minimum salary levels set, and now we have the provision that Mr Andrews put in which is another salary level that impacts the English language test. I also understand that the previous government did not adjust that rate for two years.

**Mr Metcalfe**—Yes.

**Senator Chris Evans**—The rate has not been adjusted for two years, so it has not kept up with inflation or wages growth. If that is wrong, I will come back to you but, certainly, it has not been moved for a while. That is one of the issues before me. I think that there are a range of issues with that rate that need to be addressed. Clearly, the rate that you would seek to see someone paid in the mining industry in the north-west would not be the same as you would expect someone to be paid—and I am not picking on them—say, in Launceston in Tasmania, where the standard of living and the market rates are very different. I think the mechanism that we currently use is clumsy and inappropriate in some regards. Employers have put to me: ‘You have got to be joking. The minimum rate does not mean anything in certain industries,’—it is not an issue for them. In others, it is. But if you ask me if I am concerned to ensure that the rates do not allow people to employ overseas workers at lower rates of pay and conditions than Australian workers, yes, I am. I am very focused on that and I am concerned at any suggestion that the scheme is being used, by virtue of those provisions, to allow people to employ overseas workers at lower rates and conditions than Australian workers are employed at. There has been some concern expressed to me about that, so I am focused on it. There are no current decisions that have taken by government as to how one might respond to those issues, but they are issues that exist in relation to the visa class, and I am actively considering how we deal with those.

**Senator ELLISON**—Are they something that the external reference group will be looking at?

**Senator Chris Evans**—I have not so much got that group focused on the English language, wages, conditions, health and safety issues. I have actually been criticised, you will be pleased to know, by some in the trade union movement for appointing such a business-friendly group. They have been deliberately chosen to focus on the needs of business, the planning for skills and how we respond to the needs of business. That is their part of the function, if you like. I am working on how we deal with the other issues of health and safety, language, skills and industrial conditions. I am focused on that, and we will be looking to do that in a different way. One of the complications for me is the largely deregulated labour market that we have now. In the old days, award conditions had to be paid. In a lot of industries now either there are no awards or the award is not the relevant industrial instrument. Senator Fisher, who has much more recent experience, would know more about this than me. So that is one of the problems. Also, as you know, the government’s priority is to abolish Work Choices and bring in a different industrial relations regime. All of that is in the mix. I am working on it and, when policy decisions are taken, they will be announced.

**Senator ELLISON**—Although you have made a decision about the protocol for labour agreements, whereby employers have to consult unions in relation to labour agreements.

**Senator Chris Evans**—No, I have asked them to go out and consult relevant organisations, including peak bodies of employer associations. One of the problems with this is—

**Senator ELLISON**—That does include unions, doesn’t it?

**Senator Chris Evans**—Yes. What I want them to do is consult people who are players in the industry. At the moment, you could come to me and negotiate an industrial agreement, and Senators Trood and Payne, working in the same industry, would have no knowledge of that;



there would be no transparency to the deal I did with you. I do not think that is appropriate. I might have allowed you to employ people at a lower classification, or unskilled workers, but I have not given that benefit to Senator Trood or Senator Payne, and they would only find out when they were having trouble recruiting labour. I think there needs to be more transparency in the system, and I think by forcing the parties to make people aware of it then we can strike an agreement that is much more transparent. But I am very keen to promote labour agreements, because I think they have a useful part to play.

**Senator ELLISON**—Last year, the former minister announced fast-tracking of the 457 visa. Is that initiative being continued?

**Senator Chris Evans**—I will get Mr Parsons to report on that. In general terms the answer is yes, but I must say that I am not satisfied—on the basis of responses I have had from business—that that is going to be nearly enough to meet their needs. I have been pressuring Mr Parsons that we need to go further to be more responsive to the needs of business, but this is a genuine attempt to meet that demand, and I will have him explain to you how that is progressing.

**Senator ELLISON**—Could you address the current backlog of 457 visas in your answer, Mr Parsons? What is the backlog, if any?

**Mr Parsons**—To try and identify low-risk 457 applications for fast processing, the department has a limited three-month pilot running in Sydney, where we are testing our assumptions against the profile of cases to see whether or not our assessment of what is low-risk is, in fact, low-risk. We are doing that by a proactive monitoring regime for those that have been fast-tracked to then follow them up to see if our assumptions were, in fact, true.

The nature of the pilot is such that where the occupation is in the top two levels of ASCO—so they are professional occupations, where there should be low risk of worker exploitation or workers brought in that are not necessarily as skilled as they should be—our processing officers have discretion to grant the visa if the sponsor does not furnish every piece of substantiating evidence with their visa application. They tag it as one that has been expedited for that audit afterwards to see whether our assumptions are ringing true. The pilot's three-month duration comes to a close at the end of this month, so I do not have any results to report to the committee or to the minister as yet. That will inform the next step, which would perhaps be to go further afield in validating our assumptions.

**Senator ELLISON**—And backlog? Any idea about backlog?

**Mr Parsons**—The backlog, as such, has waned and ebbed as different things have come into play. By way of example, there is a mandatory health check for anyone who comes out on a 457 visa and who is either working in the medical profession or coming out for more than 12 months stay. There was a period leading up to Christmas—coming out of last winter, in fact—where there were some staffing issues in the medical clearance unit in Sydney. They were introducing a four- to six-week delay in the processing of the medical component of visa applications. That was addressed as soon as appropriately qualified staff could be applied to the backlog—overtime was worked, et cetera—and that was largely eradicated. I think we are now down to a one-week delay on the medical component of the visas.

As I have explained to committees in the past, there are other dimensions to processing time. Minister Evans referred to the changing nature of the source countries. As we are finding competition and the global market tightens for the supply of skilled labour, we are finding that more and more candidates are coming from the developing world, as opposed to the developed world. In those countries, there is less rigour about record-keeping and there is less precision and less confidence in some of the public authorities and educational institutions, which is requiring us to spend more time validating some of the assertions that are made on the visa applications.

**Senator ELLISON**—The Labor platform states, Minister, that one of the principles for the operation of temporary skilled migration will be:

- information on organisations that can provide support and assistance be provided to temporary skilled migrant workers.

I appreciate that. Have there been any changes, with the new government, to the information provided to 457 visa holders, and does the government anticipate that it will, through this process, allow access to 457 visa holders by trade unions?

**Senator Chris Evans**—Senator, it is commendable that you read the ALP platform so closely.

**Senator ELLISON**—I thought you would have too.

**Senator Chris Evans**—I now feel almost obliged to go and read the federal Liberal Party council—

**Senator ELLISON**—We are not in government!

**Senator Chris Evans**—No, but it never had any influence over you when you were, as I recall, because I understand that the resolutions they pass are generally pretty whacky.

**Senator ELLISON**—It is your platform we are looking at.

**Senator Chris Evans**—It is a very important instrument in providing advice to Labor governments, Senator Ellison, but you seem to be fixated on the ‘unions under the bed’ argument that you promoted in the last election campaign without much success.

**Senator ELLISON**—I do not think you can blame us for that when they paid for your campaign!

**Senator Chris Evans**—I think you will find there were a great deal of business donations, as well, for the campaign.

**Senator ELLISON**—You might want to disabuse us of that preoccupation.

**Senator Chris Evans**—Well, it seems that every press release you issue seems to be about that, Senator Ellison. You really have to develop a broader view of the world. One of the issues I am examining is the question of what information about their rights is provided to 457 visa holders on arrival in the country. We have had—as has been pointed out to you—a large number of cases of exploitation. To be frank, when I entered the portfolio, I thought that would probably be media sensationalism and just a minor problem. The advice I have received from the department has confirmed a view that it is much more widespread than I

first thought. The majority of employers do the right thing, but there has been a minority section in which we have had serious misuse of the visa and exploitation.

I have not made any decisions about how we provide that information to those persons coming into the country, but it is a particular issue when they do not have English language skills. Think about it this way: you bring in somebody with no English. They are tied to a particular sponsor and may then be taken to a regional area of Australia, housed with a group of other workers from the same country of origin in an employer rented or provided home; transported to and from work by that employer, do not mix with other workers with whom they can share a common language and a conversation. There are real risks in that for exploitation. We have had a number of examples—ones that concerned the previous government, quite rightly, and ones that concern this government. We have to deal with that. How you provide information to those people and how you ensure their rights are protected is a serious matter of public policy that I would have thought the whole parliament was concerned with. That then raises—as we have discussed—the question of English language skills, it raises the question of what sort of information is provided to them and it raises the question of who has access to them.

It is not my intention to provide that unions interview everyone on arrival. There is no such proposition before me. But I am keen to see that there is greater transparency in the system and that those people coming in on the visas know their rights under Australian law. We have had far too many examples where some of those workers have been exploited. For instance, there are some groups of workers who may well want access to a church. I know of one group of workers who are strongly Catholic. I would have thought that, if they had had some contact with the Catholic church, they would have received much better treatment and their exploitation would have been brought to our attention much faster. There are a range of groups in our community that would take an interest in them.

It is this question of transparency, but it is also about how we make sure those people coming into the country are aware of their rights and receive the wages and conditions they are entitled to under our law. That is not easy, as the previous government found. But those are issues I am very serious about tackling. Again, I make the point that, unless we get that right, the public will have no confidence in the system and there will be a backlash against the importation of skilled labour. As we know, over the history of Australia, when there is public disquiet about the immigration system then there is enormous pressure to scale it back. People have got to have confidence in it. They have got to have confidence that people who are brought in are treated fairly and that they are not undercutting Australians' wages and conditions. It is all part of getting that balance right. I know it is something the previous government struggled with. I am finding it difficult. It is not easy, but it is important public policy and we are working very hard at it.

**Senator ELLISON**—On the question of transparency, the trucking industry working group was reporting to you—has that report been given to you and, if so, will it be made public?

**Senator Chris Evans**—I am advised it is expected at the end of February.

**Senator ELLISON**—Thank you.

**Mr Parsons**—Chair, I just need to correct the record. I said we had a three-month pilot of the risk based expedited processing operating in New South Wales. It is actually a six-month pilot, so it will not report until May.

**Senator ELLISON**—I will move on now to the situation with Western Australia. The Prime Minister announced, separately to COAG but on the same day as COAG in December, that initiatives will be progressed to address the skilled migration needs of Western Australia. What progress has been made in relation to that announcement by the Prime Minister, what changes are being considered and what is it anticipated will be done to meet this announcement?

**Senator Chris Evans**—I know the Prime Minister and the Premier, Mr Alan Carpenter, have spoken about it. I think it was raised by Mr Carpenter at the COAG meeting—do not quote me on that, but I am pretty sure he raised it as an issue.

**Senator ELLISON**—I think he did.

**Senator Chris Evans**—Mr Carpenter has had a number of discussions with me about it. I think it is fair to say that he is very focused on it. The question of Western Australian interests is being pursued as part of the broader debate, but clearly the focus is on WA and Queensland. For instance, a rapid growth of 457s has been experienced in the last couple of years in WA, which has been leading the charge in terms of the increase.

There are a number of initiatives. There are the COAG processes, obviously. There is the general migration program for next year review. I have written to the state governments to encourage their participation and advice. I am sure the Western Australian government will respond formally to that, but I have had discussions with them already. It is also the case that the minister, Margaret Quirk, on behalf of the state government, attended the consultations in Perth when I consulted with business and community groups. She was there to listen to the consultations. The reference group on 457s is another major piece of work in that effort, and I am very pleased that Mr Tim Shanahan is part of that. Mr Shanahan was Chief Executive Officer of the Chamber of Minerals and Energy of Western Australia until quite recently and is now at the University of Western Australia as Director of the Energy and Minerals Initiative. He has taken on one of the three positions on that reference group because I was parochial and insisted we have a Western Australian on it. I am sure, given his very strong contacts in Western Australia and his history in the area, he will make a very serious contribution to that work.

**Senator ELLISON**—I asked Mr Parsons earlier about doctors and the qualifications of doctors in the different regimes. One thing I meant to ask was about the former minister's sampling review in relation to the qualifications of doctors coming to Australia. I understand that there were concerns regarding qualifications, education and the work experience of overseas trained doctors. Can you advise us what came of that review, Mr Parsons?

**Mr Parsons**—In essence the review was a sample, originally targeted at grabbing 100 visa applications from around the country for 457 doctors and going through our files to see whether all the documentary evidence et cetera was in order. The sample grew to be slightly more than 100 by the time we ran some contingent cases just in case we could not locate all of the file material. Our record-keeping was better than I had anticipated because all the cases

did have the material that we required. What we noted was some disparity between states, both in terms of the medical boards and the medical departments, and the local arrangements—for want of a better description—that the department was applying to approve those visas. For example, one of the states seemed to develop a practice of applying for the visa just ahead of granting the licence to practise medicine in that state, and the local department office would grant the visa on the understanding that the licence was in the mail. Other states had got into the bad habit, I think, of not furnishing as an attachment the licence to practice, requiring the department to trawl through websites to ascertain for themselves whether or not the doctor had that credential to practise medicine in the state.

So what we got out of that was a mixed and varied picture of information supplied, work practices in approving the visa and, in some cases, gaps in people's work experience that we thought was of concern and that could not be explained by the sponsor.

**Senator ELLISON**—Thank you. Minister, last year the Joint Standing Committee on Migration gave a report on skilled migration. Is there any planning response to that from the government? You will be responding to it in due course, I presume.

**Senator Chris Evans**—Are you implying that the previous government did not reply to it, Senator Ellison? I am shocked.

**Senator ELLISON**—I think it came out in August last year.

**Senator Chris Evans**—I am sure the government, as they were the government until 24 November, would have dealt with it. I am amazed that it has not been dealt with expeditiously.

**Senator ELLISON**—It was only a few months ago, and we have a new government which came in in late November—

**Senator Chris Evans**—I intend to have a policy of responding much more thoroughly and quickly to reports in my area. I can assure you that I have taken note of the report. I read it as part of the background on the 457 issues. I have also asked that it be made available to the reference committee as a useful source. I did not realise that it had not yet been responded to, but I am not surprised. We will, of course, respond to it.

**Senator ELLISON**—I am pleased to hear that, Minister.

**CHAIR**—Senator Nettle had questions about family reunion, which is more under 1.2, I think.

**Mr Metcalfe**—No, it should be 1.1.

**CHAIR**—It is 1.1—family reunion?

**Mr Parsons**—Family migration is 1.1.

**CHAIR**—Senator Ellison, would you like to keep going while we wait for Senator Nettle to return.

**Senator ELLISON**—Yes, I have some questions on 1.1.2, Family migration. Dare I refer to this again without causing Senator Evans some concern? The ALP national platform states—

**Senator Chris Evans**—You've got to get out and read more widely, Senator Ellison! I thought you would have taken your family on a Christmas holiday and relaxed and read a couple of potboilers. I am worried for your very lovely wife and your children that you have not been focused on the right things.

**Senator TROOD**—It's a real page-turner!

**Senator ELLISON**—It says:

Labor will administer a fairer and more balanced immigration program. The ratio of skilled to family migration will be tailored to meet Australia's needs.

In what way does the government believe that the previous program was not balanced? It says here 'a more balanced immigration program' in 'the ratio of skilled to family'. We talked earlier about the skilled migration component being increased and how important it was. In what way, then, does that need to be more balanced?

**Senator Chris Evans**—As I indicated before, Senator Ellison, you seem to be a bit fixated on whether we are going to continue the previous government's policy. In a broad sense, no. In terms of the proportion between skilled and non-skilled migration, that will be a decision—as I told you before—for the cabinet when considering the 2008-09 migration program. Once that is announced, you will be able to examine that then. That will be based on our assessment of the needs of the country and what the appropriate balance is.

But can I say this. One of the things that has been raised with me consistently as an issue is that the more you encourage skilled migration, the more you have a resultant pressure for family migration—people wanting to bring their families, their parents et cetera. What we are seeing, as I understand it—and I am no expert; I am an 11-week expert—is a build-up in classes like the parent classes and in people wanting to bring spouses and kids because of the increase in skilled migrants who then wish to have family reunion measures. So you cannot look at them in isolation. Employers have put to me that one of the reasons they cannot attract skilled labour, or are perhaps missing out in international competition, is that some countries have more favourable rules governing family reunion and the capacity for people to take family with them when they settle in a new country. This confirms the complexity of the issues involved.

Some people have asked that I consider freeing up the family provisions in order to assist in the recruitment of skilled labour, because of the international competition. Others have asked me to remove the requirement that they have to have private health insurance—again, because it is seen as a comparative disadvantage in that international competition. So getting the balance right is difficult. It is a cabinet decision for the 2008-09 program. There is tremendous pressure on the family side of the program and there is tremendous pressure on the humanitarian side of the program. But I do think we have to have an understanding that the increase in skilled migration adds to those pressures. It is not an either/or—that migration program drives pressure in the other programs.

**Senator ELLISON**—Senator Evans, on the question of meeting Australia's needs, in this statement you talked about how you have a consequence of family migration—which is understandable—when you have increased skills migration. Sure, that can bring about an increase in family migration because it is tacked onto increased skilled migration. But,

independently of that, what about where you have increased family migration that is not related to skills, that is stand-alone, as it were—how do you see that in the context of the ALP national platform statement? I appreciate what you have just said.

**Senator Chris Evans**—I do not actually understand the question, Senator.

**Senator MARSHALL**—Madam Chair, just for your consideration: it appears we are now debating policy positions. I am happy to debate those matters in the chamber all we like—and that is the proper place for it—but I think we are now moving past the area of questioning on the additional budget estimates. Primarily this is the opportunity for the opposition to question the department on its expenditure. While I am not particularly worried about it, this is not the right area for debating the ALP platform; we should be doing that in the Senate chamber. The questions really should be going to additional estimates. I do not necessarily want to raise it as a point of order, but I am just worried how far we go down this path.

**Senator ELLISON**—Anything which touches on expenditure in the portfolio is policy. Ever since I have been involved in estimates—which is a very long time—you have had the minister to answer questions on policy and the officials to answer questions on the implementation of that policy.

**Senator MARSHALL**—But my point is that you are debating the issue here. It is about questions and answers.

**Senator ELLISON**—Madam Chair, I challenge Senator Marshall to show where I have debated. I have simply asked questions and I am now asking a supplementary question on the answer which the minister gave, which I conceded I could see the reasoning of. Now I am leading into another area, and I asked a question which is supplementary to that. That does not come within the definition of a debate.

**CHAIR**—Senator Ellison, we look forward to your questions, so if you would like to continue; questions on policy or additional estimates only.

**Senator Chris Evans**—I did not get the import of that question, you might like to put it to me again.

**Senator ELLISON**—What you said earlier was that, quite understandably, with increased skilled migration you have an increase in the family migration component because people want to bring their parents out after they have migrated here. I understand that, and can see the common sense in that. What I am asking now, supplementary to that, is what about an increase in family migration quite separate to any skilled migration? Where does the government see that as being unbalanced, or where it needs to meet Australia's needs, as contained in this very clear statement in the ALP national platform? I am dealing with stand-alone family migration—not that which will increase because of skilled migration, which I have conceded I can see happening, but family migration per se.

**Senator Chris Evans**—First of all, just so we are clear: the Australian Labor Party platform provides broad guidance to government. It is not the same as one's election commitments. It generally speaks in broad principles, and that is the role the platform plays. Governments use it as a point of direction for implementing policy over time. More currently,

we have the election commitments, which are explained to the public and debated as part of the election campaign.

As I have said to you on a number of occasions, all of those categories and levels of migration will be set by the cabinet as a result of the determination of the 2008-09 program. At the moment, all I am doing is administering your program. The only change I have made to that is that I have announced 6,000 extra general skilled migration places in order to try and meet the demands of the Australian economy and employers. Otherwise, all I am doing is administering your program in terms of the migration numbers.

In April, the cabinet will make a decision on the 2008-09 migration program, and the various categories and numbers of people we are going to seek to bring into the country under those programs. Until that decision is made I cannot help you with what we will do in terms of the specific categories or the total number. As I say, I have complimented you on being a large migration party. Despite the rhetoric of 1996 or the former prime minister, you have actually run the largest migration program in the country bar one year: 1969-70. The program you ran for the 2007-08 year was the second-largest in the history of the nation, only beaten by the 1969-70 year program.

We are running a large migration program currently, courtesy of the Howard government. The Rudd government will make a decision on how it will shape the program for next year at a cabinet meeting, probably in April. That will be made public then. Until then, I cannot help you with the numbers for the 2008-09 program.

**CHAIR**—Are there any further questions in this area? We will come back to it when Senator Nettle comes back. She has obviously gone to another committee.

**Senator Chris Evans**—Madam Chair, as I indicated to you and to Senator Ellison privately, I have a personal matter to attend to which requires me to be out of the building for about 45 minutes or so from 4.15 pm. I want to confirm my request to be excused for that period, as I have explained to Senator Ellison. I want to advise the other senators of that. I will return and happily take questions that people want to put to the minister, rather than to the department after that. Can I also just ask, Madam Chair, what your intention is in relation to afternoon tea—whether I can accommodate more time for you by doing it a bit later than you had planned. I am in your hands. I just wanted to let other senators know that it was my intention to seek to be excused for about three quarters of an hour from 4.15 pm.

**CHAIR**—We have a scheduled break at 3.30 pm. I think we will go with that. I am sure we will be able to work around your absence. We understand.

**Senator FISHER**—I have some questions of the department about ensuring that participants in these programs generally do the right thing. How are you ensuring that employers, workers and other parties involved comply with their obligations? How is your department finding that interface with other agencies which may also work in the area? I am talking about the likes of the Workplace Ombudsman, for example. Could you address your interface with not only federal agencies but state agencies as well.

**Mr Parsons**—I am happy to say that the department, in my experience, enjoys a very cooperative and productive relationship with my federal counterparts, notably—as you said—the Workplace Ombudsman and the Department of Education, Employment and Workplace



Relations, and also with our state counterparts and the state bodies who are responsible for workplace safety. My experience of monitoring employers to measure their compliance with our requirements is that it is generally met. Recognising that we visit on that risk based matrix, I would say that for 90 per cent of those that we visit where we do find a discrepancy it is an honest mistake, an oversight or a misunderstanding. It gets to the likes of employees not being provided with a detailed payslip, which is one of the requirements, or workers not necessarily spending all of their time on the job that they were recruited to do—so they get them to do something else in quiet periods without necessarily informing the department. Those are the sorts of administrative things.

There is, however, an unfortunate core—and Minister Evans touched on this—where employers have a less than honest intention to abide by the requirements. They seem to exploit the workers: they work them more than the requisite number of hours, they do not pay them for 38 hours. The MSL is calculated at 38 hours per week; they might pay them the MSL, but they work them far more. In those cases, the department imposes the appropriate sanction.

To illustrate the relationship we have with the Workplace Ombudsman, there is an extensive program of training staff in the department to do that workplace monitoring and it was modelled to a large extent on training that the Workplace Ombudsman had prepared for their staff 12 months earlier. In fact, we have not only borrowed their syllabus and tailored our course around large parts of it, but we actually have the Workplace Ombudsman come in and present sessions in that training course to our staff. I would say there is a very cohesive, productive and cooperative relationship at both the state and federal levels.

**Senator FISHER**—Has your department, in partnership with other agencies, been able to adequately identify the participants in what we might call—and I might not have heard you correctly—the recalcitrant core, in both employers and workers?

**Mr Parsons**—On both sides, and generally my comments would be confined to where we have identified recalcitrant—your word—sponsors. There are the occasional incidents of overseas workers purporting to have a skill, being hired with the best of intent by an Australian sponsor and arriving at the job site, and only then is it found that they do not have the skills they were marketed as having. In those cases, almost without exception, the overseas worker has perhaps been misrepresented by an intermediary, a recruitment agency or a migration agent. On the other side, where we have the recalcitrant sponsor, it is my experience again that the department can go a certain way under the Migration Act in terms of imposing sanctions short of the bill being passed by the former government. We then have to refer the case to the relevant Commonwealth or state jurisdiction to use their legislation to impose sanctions as they see fit.

**Senator FISHER**—The minister announced further enhancement to part of the program on 17 February. What do you envisage in terms of your ability to continue to enjoy that sort of enforcement and monitoring regime with increased uptake?

**Mr Parsons**—You are referring to the extra 6,000 places, I take it?

**Senator FISHER**—Yes.

**Mr Parsons**—The extra 6,000 places are in the permanent skilled migration stream. It is important to understand that priority in processing the permanent skilled migration stream is in three tiers. The top tier is those where the employer has found a potential employee overseas that they wish to sponsor: the employer sponsored nomination scheme. That is our top priority because we have a potential match where an employer has someone they believe fits the requirement. That is largely where the 6,000 will be taken up, with servicing that end of the market. The middle tier, below that, is the state sponsored migration programs. The third tier, below that, that is the independent overseas worker who thinks they want to make a transition to Australia without necessarily having a job opportunity lined up. Given that it is the employer sponsored end of the market that will probably fill the majority of that 6,000, I have less concerns than I do with some of the other skilled migration areas. In fact, the extra 6,000—Mr Metcalfe can correct me if I am wrong—brings along with it supplemental funding for the department not only to process but to do that monitoring. I believe that is correct, so I have confidence that the extra 6,000 will not go wanting for lack of the attention that is applied to the current cohort.

**Senator FISHER**—The department will, essentially, be able to cope?

**Mr Parsons**—It was, in fact, collaboration between the minister's office and the department where the figure of 6,000 was proposed as a figure that we thought we could adequately service.

**Senator FISHER**—Have you provided advice to the minister or the government about how the injection of consultation with the union movement might interface again with your involvement in the process? Have you advised the government as to that?

**Mr Parsons**—I do not see it as being necessarily an impediment. As Minister Evans said earlier, the intent of consulting industry groups in the labour agreement process is one of transparency. The current parameters that we are operating within are not such that there is absolute right of veto with the feedback that comes from those industry groups. I see it, from the department's point of view, as another step in the process without any particular impact on the department.

**Senator FISHER**—Maybe I have not caught on, but can you explain for me in a little more detail how you see this consultation working? Are there two tiers of consultation, perhaps at industry level and then a one-on-one level of consultation in terms of involvement of a union and perhaps a one-on-one level consultation with a particular employer?

**Mr Metcalfe**—I think we should be careful in responding to that because I think we are getting fairly close to that issue of advice that goes to government. As these issues, as the minister explained, are still very much the subject of active consideration by the minister and the government, I would be reluctant for officers to share our thinking with this committee when in fact it is our job to share that thinking with the government. I am sure in due course the minister will make announcements as to how all of this might work, and they could be the subject of further discussion at that time. But at the moment we are very much in the phase of providing advice and policy advice, and I think it is difficult for us to respond to that line of questioning.

**Senator FISHER**—Perhaps I might then ask—

**Senator Chris Evans**—Senator, we had a long debate earlier and I made it clear that the consultation was in relation to labour agreements only, not to 457 visa applications in general. This was a consultation prior to me as minister and the Deputy Prime Minister as Minister for Employment and Workplace Relations signing off on behalf of the government on labour agreements. My concern was that there was no public transparency on those matters before: no transparency of industry associations, other employers and/or trade unions or other interested groups. But that is only in relation to a consultation process on labour agreements, not 457 visas. I am not sure whether you were here for the earlier discussions, so I wanted to make sure you understood the distinction.

**Senator FISHER**—I had heard that part of the debate but, even if we are talking about labour agreements, I want to clarify whether you were contemplating a one-on-one negotiation of a labour agreement.

**Senator Chris Evans**—No, it will be codified in some sort of process, which has not been done yet. What I did was say to the department: tell those proposing them that I want to be assured that there has been some consultation with relevant industry bodies about this, that it is not done in secret. I asked them to notify who they thought would be the relevant people and then come back with the agreement with some sort of advice to the department on who they had consulted. Before I signed off, I wanted some confidence that these issues were at least known to others.

One of the examples—I do not want to name them—was with a very major employer in a particular industry which provided for a lowering of conditions of English skills and some other conditions. There is a public interest issue in this. While I might have been happy to sign it off, the effect of that would be a secret agreement between me as minister and that single employer. I do not think that is good enough as a public policy process. How we actually work out the detail I have not quite determined. All I am trying to do is get some transparency in it.

The best example of a labour agreement was the one the previous government negotiated in the Queensland meat industry where they got the state government and the union involved. They did an agreement—driven, I understand, by Mr Andrews—that everyone tells me is a very good example of making it work. I have not codified rules yet, or made those sorts of decisions. What I have basically done is ask for those people who are seeking to get my signature to assure me, before I sign, that there has been some transparency in how they have gone about their business. When they come back to me, if I am happy with that, I will sign them off. In the meantime we will codify the process.

**Senator FISHER**—I hear the transparency argument. I am trying to reconcile that with the government's stated intention to reduce red tape and to ensure that the latter is not compromised in the zeal, I suppose, for the former. Minister, I have a couple of questions about the announcement in particular and your focus on what you referred to in your 17 February announcement as the labour-strapped mining and construction industries. I notice that both mining and construction are listed with agriculture, forestry and fishing as seasonal work. I have a bit of an interest in rural and regional issues and, in particular, in rural and regional South Australia. I want to thrash out a bit of how you see your latest announcement assisting particularly the rural and regional sectors.

**Senator Chris Evans**—As you know, the current working holiday visa system provides for persons seeking the extra year on the working holiday—so going from one year to two—if they have provided work in regional Australia which includes agriculture, forestry, fishing and mining industries. That is the current provision—basically, primary industry. So the current provisions benefit places like regional South Australia, which you raised. The idea of that, as introduced by the previous government, was to encourage holiday makers who wanted to stay for a second year to meet that requirement through work and help in some of those seasonal jobs such as fruit pickers—and sometimes provide much more skilled labour. Some of these people are highly skilled; a lot of them are professionals and what have you.

What cabinet and I wanted to do in looking to increase the numbers of people available to work in this country was to see if we could expand and build on that scheme without dragging workers out of those industries which were currently benefiting from the scheme. I was very conscious of that, and the Minister for Agriculture, Fisheries and Forestry was also very keen to point out that he did not want any damage done to the effectiveness of the scheme in those areas. So we sought to increase the total supply and then add construction in regional Australia to the pool. One of the major impediments at the moment is in the construction related activity to get projects off the ground—to build the mines, to build the ports, to build the electricity power that then allows iron ore mines, coalmines and other major projects to go ahead. We wanted to add in construction to increase the labour pool, but I am conscious of the need not to rob Peter to pay Paul, so the idea was to see how we could increase the total and also address that.

We have looked at a number of ways to increase the total pool. I am not allowed to say who or when but I understand—and one of the departmental officers may want to add—that we are close to finalising arrangements started under the previous government to add to the number of countries with which we have those arrangements. That will have an effect of adding to the pool. There is another specific measure which I am considering and which we are going to negotiate that will add to the pool, and we are also going to take active steps to encourage those people to stay the second year. I think you would have seen from the figures in the press release that we have had quite a decent increase in the numbers staying the second year. I am keen to drive that as well. It is a question of trying to get the balance right—to increase the pool and add construction, and in adding to the total pool we should continue to provide more workers into regional Australia, agriculture, tourism and what have you. That is the intent.

**Senator FISHER**—It is very true that many would-be rural workers, indeed farmers themselves, are diverted to the mining sector and, to a lesser extent, to the rural and regional construction sector. How will the government develop strategies to ensure that, in the very good endeavour of increasing the total pool and diverting some to the mining and construction sector, you do not in fact increase the numbers that already go to those sectors at the cost of the rural and regional sectors?

**Senator Chris Evans**—There are a couple of things here. The mining industry was already included, so the construction industry is the only addition. I think there will be a significant addition to the pool. Numbers are growing for general holiday visas, the number of two-year extensions is growing, the number of countries with which we have agreements is growing and there is another measure, which I hope we will announce soon, that will also grow the

pool. So we have a growing pool and the construction industry is the only addition to those who can draw on that pool. So I think we should have the capacity under this to provide more to rural and regional Australia.

The other point I would make is that we have got some work on the pattern of behaviour, and I am sorry to say that a lot of the holiday-makers have missed the best part of Australia and tend to focus on the east coast. Our experience is that they want to work in areas close to Sydney, the Gold Coast, the Great Barrier Reef et cetera. If you look at the distribution—and the figures on this are not a perfect science and I am asking the department to try to increase its research capability—you find that large numbers of them are focused on that side of the country. I am sure that that means that it is much harder in regional South Australia. Also, the numbers that come to Western Australia are quite small in proportion. That is part of the problem in WA. We are not getting many of them.

So there are distributional problems as well that cannot be really impacted by government levers. How do you tell them they are better off in South Australia enjoying the vineyards and the relaxed lifestyle there rather than staying near the bright lights of Sydney and the Gold Coast? I do not know. That is part of the problem.

**Senator FISHER**—Cheers! We can have a go. That data, albeit imperfect, to which you referred, is that public?

**Senator Chris Evans**—No. I will take on notice what I can show you. We are trying to get better information on where they go and how we can better direct them to areas in need. I will have a look at what we have but I must admit—and this is not a criticism of anyone—that the research capability is not great. The nature of their transience makes them harder to track than most. But I am happy to give you what I can find that is useful.

**Senator FISHER**—Would it make sense to include on you external reference group someone who represents rural and regional sectors, particularly given your view that they remain important to look after in this context?

**Senator Chris Evans**—The first point I would make is that I did not pick representatives. I very deliberately ensured that we did not pick representatives, because you cannot win with that. I would have to include someone from the tourism industry, someone from South Australia and so on. Where does it end? In consultation with the department, I picked three people who I thought would bring skills to the task. It is pretty well focused on the major project end of the problem—in a sense, you and I are discussing a slightly different problem—but their terms of reference are available.

I had a couple of people ring me asking why they were not on the committee and I told them that it was deliberately intended not to be a representative committee. We picked Mr Coates because he is a former chairman of the Minerals Council of Australia and is the current chairman of Xstrata, a large mining company. He has a lot of experience and is very highly regarded. Melinda Cilento is the Deputy Chief Executive of the Business Council of Australia, but has a background in economics. I wanted her labour market economics skills. Mr Shanahan was, until very recently, the CEO of the WA Chamber of Minerals and Energy. We selected them for their skills, not for their representative nature. I knew if I went down

that path—for example, the South Australian wine growers wanted to be represented as did Queensland tourism operators—it would stop being effective.

**Senator FISHER**—Then I would approach the issue in a slightly different way. I have not been able to find the terms of reference of that external reference group beyond your announcement on 17 February.

**Senator Chris Evans**—I will make those available. I thought they went out with the release but if they have not, I will make them available.

**Senator FISHER**—I may have missed it.

**Senator Chris Evans**—No, you may be right.

**Senator FISHER**—But, given the skills shortage in the rural and regional sectors, would it not make sense to include in the terms of reference some acknowledgement of those being important sectors as well? I am concerned—you referred earlier, Minister, to robbing Peter to pay Paul, and I am trying to flesh out what sorts of reassurances you are able to give us that will not happen as a result of this initiative.

**Senator Chris Evans**—I sought to do that earlier by indicating that the only addition to the eligibility in terms of the working holiday was the construction industry and that we are trying to turn on the supply tap more fully so that the total pool is bigger. I also pointed out to you that the major construction industry jobs in regional Australia are not generally in the places where holiday-makers have been going. That is part of the reassurance. All I can say to you is that we were very cognizant of those issues and I could have made much broader adjustments, but I thought that would risk robbing the industries that you quite rightly point out are in need. That is why we only made not a minor adjustment but a fairly modest adjustment compared to what we might have done in order to protect that. We will continue to monitor it. We can pull some of the levers but, in terms of where they want to go, I do not know what you do short of saying you would be paid double in South Australia and in Western Australia. States can obviously promote them. I understand your concern. I am very much aware of it, but this reference group has a particular task. It is not the whole migration program or regional needs; they are part of our more general migration program. They have particular terms of reference which are focused on capacity constraints in those major industries. What you are pointing to are the general skilled, unskilled labour shortage issues and that is my—I was going to say nine to five—nine to whenever job, and that is what we focus on daily.

**Senator FISHER**—I want to ask the department some questions about data. Do you have figures available for the number of people holding working holiday visas who undertake their three months work in the mining industry to achieve their extension at the moment? Is that data available?

**Mr Parsons**—We certainly have some data that shows the number of people who come back for the second working holiday maker visa. Are you interested in those figures?

**Senator FISHER**—That would be helpful. Do you have other figures?

**Senator MARSHALL**—Would that be broken down by nationality?

**Mr Parsons**—Yes, I have a table of nationalities. The figure for 2007-08 to date is 6,170 for the second visa. I hasten to add that that is a 51.7 per cent increase, year-to-date, over the

corresponding period last year. So indications are that the second visa is on a significant increase. The base of working holiday maker visas granted year-to-date this year is 83,877. That is a nine per cent increase year-to-date on the corresponding period last year. The total for the full year last year was 126,822 first working holiday maker visas.

**Mr Metcalfe**—Senator, your particular question was in relation to people in the mining industry who may have accessed the second visa?

**Senator FISHER**—Currently, yes.

**Mr Metcalfe**—I think the figure Mr Parsons provided you with was simply anyone eligible for the second visa. Our ability to disaggregate further is not something we have here. We could take that on notice and see if we have any more information that we could assist you with.

**Senator FISHER**—Could you please. Presumably you would have some expectation of what might be the pattern with the new program in terms of the construction sector. Are you able to share those projections?

**Senator Chris Evans**—We have made some projections that I think say that we could attract a further 5,000 workers. That was some figuring we got out of the department and some related departments. The key point to make is that the total numbers coming in are growing, and that is the main thing that will drive the program. The numbers in the second visa are also increasing but, as you have heard, we have gone up to 120,000 last year. It was 80,000 already, I think, in the first six months of this year. The total program is being driven, and we are trying to get more people in. I think the real issue which concerns me—and Mr Hughes might be able to help you—is the figures which I raised earlier about where they go when they are here.

**Mr Hughes**—In the case of working holiday-makers arriving in 2006-07, indications on their passenger cards of where they were going were: 45 per cent to New South Wales, 26 per cent to Queensland, 14 per cent to Victoria and 10 per cent to Western Australia, which suggests that a very small number indicated that they were intending to go to South Australia. Of course, they may change their minds after they arrive and move around, and they may go to more than one place, but they were the initial indications of where they intended to spend their time.

**Senator FISHER**—That is helpful, but it is a related issue, not the actual issue. Minister, yes, the whole of program is important, but I want to come back to one of my particular concerns at the moment: the agriculture, fisheries and forestry sectors. You have some data about those who currently undertake their three months work in the mining industry to get their extension. We would expect a certain amount of participants, presumably, in the construction sector. I would ask how that compares with those who currently get their extension via the agriculture, fisheries and forestry sectors. Do you have data in that latter respect to enable us to compare?

**Senator Chris Evans**—I am happy to take it on notice. The data is not nearly as comprehensive as I would have liked, and I think we need to do more work on this. It is true that this cohort is a little more difficult to track than others in the sense that they do not settle permanently. The whole idea is that they are travelling Australia, picking up work, and so the

department's grasp on or transparency about them is not as good as about other people who settle in Australia. All I can say is that I am aware of and share your concerns. I also think, on the evidence I have seen, that very few go to South Australia or Tasmania. According to the information we have, Western Australia gets less than its fair share, given the employment market, and New South Wales, Queensland and those jobs along the eastern coast seem to be where they go, according to the best information. The question is: how will this change in terms of the impact of the construction industry being included in regional Australia? We have done some projections but, to be brutally frank, I would not stake my life on them. We will just have to see what the experience is. The main feature is that we are trying turn the tap on so that we get more in across the board. That is the best thing we can do: just take advantage of their skills. I am happy to take on notice what information I can get you, but I am just warning you that, from my experience, it is not all that you want.

**CHAIR**—Senator Nettle, we will go to questions from you, if you like.

**Senator NETTLE**—Which outcome are we in now? I am not sure whether my question will fit in.

**CHAIR**—We have been moving around, so I am sure your questions will fit in.

**Mr Metcalfe**—We are still in outcome 1.1.

**CHAIR**—Family reunion will probably fit in under output 1.1, we think.

**Mr Metcalfe**—Yes, family reunion is one of the particular elements of 1.1, Madam Chair.

**Senator NETTLE**—I have a question for the minister. Is the government considering any change to the family reunion program? A number of constituents have approached me about expanding the definition of a family for the family reunion applications, especially with regard to refugees. In their view, the definition of family is too narrow. Is that something that the government is looking at or has a view on?

**Senator Chris Evans**—Any consideration like that will be taken into account as part of the overall migration program on which we are consulting. I am holding some formal consultations on the humanitarian program next week, but that will be part of that broader process. In general, all I will say at this stage is there is enormous pressure on that aspect of the program. There is a lot more demand than there are places. I know that is causing a lot of difficulty for a lot of people. That has been the previous government's experience over many years. It is a real tension in the system. Decisions about that program for next year will be made as part of the 2008-09 program deliberations by cabinet, but the consultations are occurring now.

**Senator NETTLE**—Will part of the consultations include discussion of the make-up of where the humanitarian entrants will come from? We have had discussion at estimates in the past when former Minister Andrews made some decisions about the African intake. Is that a part of that consultation?

**Senator Chris Evans**—The secretary tells me that is part of outcome 1.2, but the answer is yes, in the sense that we are consulting with people to get their views about all related matters. I met with the African community in both Melbourne and Sydney, as one of the first things I did as minister, to provide some reassurance to them and to address the concern they



had with the comments of the previous minister. I think they appreciated that. They sought assurances from me about next year's program, and I did not give them any. That decision will be made in the normal way after proper consideration of the advice given to us by both the department and UNHCR. So those decisions have not been made yet, but I was keen to assure the African community that they have the support of the Rudd Labor government, that applications will be treated on their merit and that we do not hold the view that they are unsuitable settlers in this country. As I said, one of the first things I did was to meet with Melbourne and Sydney African leaders—I think there were about 30 at each meeting—and I am down to meet the Western Australian African community leaders shortly; although a number of them have spoken to me individually. But, as I said, the decision is part of the migration program decision.

**Senator NETTLE**—At budget time?

**Senator Chris Evans**—It is announced as sort of part of the budget process.

**Mr Metcalfe**—It is part of the budget process, Senator, and it is a matter for the government as to when it would be actually announced. Usually it is in the first half of the year, but it is yet to be considered by government.

**Senator Chris Evans**—I understand it is because of the link of the cost of the program to the budget considerations. I am told that I cost a lot.

**CHAIR**—Are there further questions for output 1.1?

**Senator ELLISON**—I have questions on 1.1.3, Special eligibility. Has any work been progressed on establishing new groups for special eligibility criteria?

**Senator Chris Evans**—Could you be more specific? What are you after?

**Senator ELLISON**—As an example, will special eligibility criteria be established for Iraqis or Afghanis who have provided assistance to the Australian military or diplomatic corps overseas?

**Senator Chris Evans**—There are policy decisions before government which would be considered as part of the planning for any withdrawal of troops from any zones in which we have been active, but no decisions have been taken on those. To be frank, that is a decision inside government that has not been taken, and I have nothing else to say at the moment about that.

**Senator ELLISON**—I am not sure if this is the right output group, but I understand that whilst the previous government was in caretaker mode the department finalised the release of an FOI that was over a year old to the *Australian* newspaper. I want to know how many pages were released—but, firstly, I had better make sure that the secretary is on the same page as I am.

**Mr Metcalfe**—I suspect that FOI probably comes under internal products, but that is an issue we can talk about now. Could you give me a little bit more information? We receive thousands of FOI requests each year.

**Senator ELLISON**—This was an outstanding one. Some pages were exempted under the national interest. To make sure that we are on the same page, it dealt in part with the signed

deportation order for Sheikh Hilali which was signed by a minister and then there was a subsequent document signed by a minister. Does that help?

**Mr Metcalfe**—It helps a little. Unfortunately, the officers here do not have specific recollection of that issue. There was a change of assistant secretary around that time, so I do not have the corporate knowledge here with me. If you have any questions around that, I could take those on notice and come back to you.

**Senator ELLISON**—Were two of the documents that were exempted ones that purported to be a signed deportation order for Sheikh Hilali—signed by a minister—and a subsequent document which overturned that? How many pages were provided to the *Australian* newspaper and were any exempted under the national interest? That relates to the same FOI and I am happy for you to take that on notice.

**Mr Metcalfe**—I will take that on notice. You indicated that this was a decision taken by the department when the previous government was in caretaker mode before the election?

**Senator ELLISON**—That is right.

**Senator Chris Evans**—It is not ringing any bells for me.

**Senator ELLISON**—No. That is all I have for 1.1.

**CHAIR**—We will resume, after a break, with output 1.2.

**Proceedings suspended from 3.28 pm to 3.47 pm**

**CHAIR**—We are moving to output 1.2, Refugee and Humanitarian Entry and Stay. Senator Nettle, we will start with questions from you.

**Mr Metcalfe**—Madam Chair, before we go to those, I have another item to come back to the committee on from earlier today, if that is okay?

**CHAIR**—Yes.

**Mr Metcalfe**—Earlier this morning, Senator Nettle raised the case of Mr E, one of the cases referred to the Ombudsman, and we discussed the department's letter to him seeking information as to any change in his circumstances. I am advised that my officers now do have some further information about Mr E's situation. Because it goes to his personal circumstances I would suggest that, rather than dealing with it publicly in the hearing, if it is acceptable to Senator Nettle we might provide her with a private briefing. We could do that during one of the breaks of today's program. I will ask Ms Lyn O'Connell, the relevant division head, to approach Senator Nettle later on this afternoon.

**CHAIR**—It sounds like that is agreeable. Thank you for that.

**Senator NETTLE**—I wanted to ask about temporary protection visas, it being Labor's policy to abolish temporary protection visas. I thought I would ask how that was going.

**Senator Chris Evans**—I have never had so much interest in a Labor Party policy document. It has been so widely read and examined. I always pay deep respect to the party platform, but I do not seem to read it quite as often or as deeply as some others. Both Senator Crossin, the Chair, and I are deeply embarrassed by the familiarity of others with the document.

**CHAIR**—You mean you do not keep it by your bedside each night, Senator Evans?

**Senator Chris Evans**—No. It is in my office. I read a couple of potboilers over Christmas, rather than that. I am certainly worried about Senator Ellison's reading habits. We have got to put him onto a couple of good authors.

Seriously, this is a very important part of Labor's platform. The government has not taken any decisions as yet. We think that the temporary protection visa system did not provide the answer to the problem the government said it was addressing. It is interesting that of the 11,086 TPVs and temporary humanitarian visas granted, 9,525 have already been granted permanent visas to stay in Australia. So, the vast bulk of people who were put on the temporary protection visas are actually now on permanent protection visas. It did not act as a deterrent. In fact, the number of boat arrivals went up following the introduction of the TPV.

We are committed to ending the TPV. I have asked the department for advice on the best way forward, and have—quite frankly—hit a few issues that I am having to work on to resolve. I am anxious to deliver on that commitment as soon as possible. I have not yet made a decision, but that will be done as soon as possible. It is very much a focus. I am taking advice on it and working through the issues. It is my intention to deliver on all our election promises. I think we have already shown we are very focused on doing that. I am not quite ready to announce how we will handle the TPVs, but there is no change in policy. It is our intention to abolish them.

**Senator NETTLE**—Can you give me a ballpark time frame?

**Senator Chris Evans**—As I said earlier, one of the frustrations of being a minister is that you think you can just get things done. It does not work like that, as Senator Ellison will probably attest. I cannot—other than to say it is a priority, and I want to do it as soon as possible.

**Senator NETTLE**—Okay. Thank you.

**Senator TROOD**—Does that mean, Minister, that there will be no more temporary protection visas issued?

**Senator Chris Evans**—That is one of the issues, Senator Trood, that I am looking at. You cannot resolve one problem without resolving the others, if you like. There is a series of related problems. What you replace it with is part of the issue. I do not want to go into the details of what the government is considering. At the moment, the system remains as is, and I am hopeful that I can announce a change of policy soon.

**Senator TROOD**—So, it is conceivable that you might issue some further visas if the circumstances arose where that was necessary.

**Senator Chris Evans**—Yes. A change would require a change in regulations. Effectively, you cannot fiddle with one part of the system without fiddling with it all—to put it inelegantly. It is not as straightforward as it might sound. To answer your question, I guess it is possible. We need to change the regulations and, in doing so, we need to change the whole suite, not just one.

**Senator TROOD**—What does that mean for the people who are on temporary protection visas?

**Senator Chris Evans**—They are currently being processed in the same way. They come up for review as their time period rolls over. The evidence is that the vast majority of them, who have remained in the country after seeking temporary protection, move on to permanent visas. That will continue until we change the system.

**Senator TROOD**—So you will deal with these as their time limits expire in relation to these temporary arrangements. You are not proposing to shift everybody who is currently on a temporary protection visa onto some other form of visa. Is that correct?

**Senator Chris Evans**—I think we are at cross-purposes. You asked what is happening currently. The system that existed at the time of the election is still in place so those people are able to get their position reviewed after thirty months. That is still continuing. We have not put a stop to that. As to what policy position we take for those who are already in the system, that is a decision for government and will be part of the announcement. At the moment, with the continuation of the existing system, those people can move off temporary protection visas onto permanent visas by virtue of the existing rules.

**Senator TROOD**—No, I actually understood you to say that. What I was concerned about were those people who were not seeking review, or who were on a temporary protection visa who might be likely to remain there for some time. Are you planning to automatically shift them to some other kind of visa arrangement?

**Senator Chris Evans**—No decision has been taken in relation to those matters, as I say, and when I make an announcement it will deal with the gamut of issues because of the regulation changes required et cetera. The simple answer is no policy decision has been made by the government but the commitment to the platform position remains rock solid. It is my intention to deliver on that as soon as possible.

**Senator NETTLE**—I will just ask about ministerial interventions, which we were talking about before. When you got the portfolio, minister, how many ministerial interventions did you have there waiting for you to deal with?

**Senator Chris Evans**—Perhaps the department can best answer that. I know I was frightened by the figure.

**Mr Hughes**—I am not sure that we have a precise figure on exactly how many were waiting at the time that the minister took up office, but I think it would be somewhere between one and two thousand.

**Senator NETTLE**—No wonder you are looking favourably at complementary protection. I also wondered where I could get the figures for how many ministerial interventions Minister Andrews dealt with, and how many of those were considered favourably as well, now that his period has ended.

**Mr Illingworth**—There were 1,846 requests resulting in 479 intervention acts. Those are case related figures, so there may be more than one visa granted in each of those instances but they relate to, say, a family unit. Just to clarify, those are under the humanitarian intervention related powers post RRT.

**Senator NETTLE**—Yes, that is what I understood—thank you. The other question that I had for this section was about climate refugees. I note the department has provided an answer

to a question on notice about some documents there. Maybe I could ask the minister whether this is a priority issue at all for the new government?

**Senator Chris Evans**—The department have advised me on their current handling of the issues. I think Mr Hughes would best answer it. It is not a priority in the sense of it being something I have had to deal with in the first 11 weeks, but I am conscious it is an issue that may confront the government. The government is focused particularly on the South Pacific strategy and supporting those islands and communities in our near neighbourhood. Of course, some of them are right in the firing line for any climate change impact, so it is a policy issue confronting the government. I have not taken any specific measures in relation to immigration, but I am well aware that it is an issue for our portfolio and there has been discussion among government, particularly about the South Pacific issues and how that might impact et cetera. Perhaps Mr Hughes might want to advise where the department is up to with its consideration of these issues.

**Mr Hughes**—I will just recap the things that Mr Metcalfe and I have said at a number of estimates going back over 2007 and beyond. The current policy settings are based on the refugee convention in terms of humanitarian entry to Australia. The criteria require a person to have a well-founded fear of persecution, to be outside their country and the well-founded fear of persecution is to be based on convention reasons, such as race, religion, political opinion et cetera. The special humanitarian program criteria are similar in that they again require a person to be outside their country, but to be at risk of substantial discrimination amounting to a gross violation of human rights.

I think, as we have said at previous estimates, it could be that the root causes of people being able to meet those criteria currently could, in some circumstances, be traced back to displacement by climate change in some form or another. However, there are currently no specific criteria that would allow the entry of a person purely on the grounds that they were displaced by climate change. I guess in that sense Australia is no different to other countries in a similar position. We talk to our American and Canadian colleagues about their displacements in their programs and they do not have any such criteria strictly related to displacement by climate change.

I think it is fair to say that international thinking is still developing on the part which migration could take as a response to climate change displacement, as opposed to attempting to ameliorate climate change or adapt through internal relocation. I think I have seen more international discussion of it in 2007 than in previous years. The UN High Commissioner for Refugees mentioned it in October last year as something that he thought UNHCR should study. The International Organisation for Migration has commissioned some research on it. I would still say though, internationally, that thinking on what part international migration or changes to migration program criteria could take and what part it could play in resolving displacement by climate change is still fairly immature. I do not think governments have come to firm views on that.

So I think it is really a matter for the government to consider as a matter of policy. If it wishes to change the current criteria to deal with any case loads that might confront it relating to climate change, we do now have the Department of Climate Change as, I guess, a new

centre of expertise in government; and we have already made contact with them and will be working with them on keeping abreast of the issues internationally.

**Senator NETTLE**—When I have asked about this in the past, the department has been reading documents that are out there on this issue. In that light, I draw your attention to a report by the Oxford Research Group that came out last month, which points to up to 200 million environmental refugees. I wonder whether the department has done any of their own work or whether the current status continues to be that of being aware of other work that is being done in this area.

**Mr Hughes**—In that sense, we are following and participating in the international debate with our partner countries. As I mentioned, we do from time to time talk about this with our colleagues in the United States and Canada. We participate in debate in international forums such as UNHCR and the International Organisation for Migration. In terms of independent documentation, we are not currently doing our own independent research. As the minister mentioned, we are rather strapped for funds for research at the moment. But since a great deal has already been done internationally, we are staying abreast of that.

**Senator NETTLE**—Minister, could I ask you whether there has been any thought of following the New Zealand example. They have a Pacific access category. It is not specifically for climate change, but they use it to take a number of people from each of the Pacific islands. Has any thought or consideration been given to that kind of idea as a way to deal with it?

**Senator Chris Evans**—There is a focus on the engagement with the South Pacific. As you know, we actually have two people from the executive, Mr McMullan and Mr Duncan Kerr, engaged in the issue and the Prime Minister is very much focused on how one helps stabilise and support the economies of South Pacific nations. So there is a range of work going on. I certainly have undertaken to follow the experience of the trial that New Zealand is running and I will certainly monitor that quite closely in thinking about policy responses in Australia. So, yes, the whole response to the issues of South Pacific nations and how we can best support them, short of military interventions when things go bad, is very much a focus of the government. Part of that is looking at, in particular, the experience that the New Zealanders will have of this trial that they are having.

**Senator NETTLE**—I just have one more question on ministerial interventions. I am sure it is a difficult question to answer, but how long does each ministerial intervention take? How much work is that for both the department and the minister? Can you give some sort of average?

**Mr Illingworth**—It very much depends on the nature of the intervention request. The time taken to complete the handling of a request can vary quite widely. In some instances, for example if a request is made and there is nothing new substantively raised in the matter, then it is capable of being resolved very quickly. Historically, such requests can be finalised without referral to the minister. If, as is also the case, somebody writes in and commissions or starts the request but says that key information is still to be gathered, then it can take some time to bring the matter to a close. That can happen, for example where people want to advance arguments based on issues relating to torture, trauma and psychological harm or

medical grounds where they need to get specialist assessments to provide in support of their request.

**Senator NETTLE**—Are you saying that some ministerial intervention cases are resolved without going to the minister?

**Mr Illingworth**—That has historically been the case. Under arrangements put in place and operated under by previous ministers there were criteria that the department was asked to apply to determine whether cases were referred to the minister. For example, if there was an intervention request following a tribunal decision that a person was not a refugee then in all cases the first request would be referred to the minister. But where there was a subsequent request and there was no new information, then previous ministers have told us that we should finalise those matters without referring them again to the minister. So in that sense, depending on whether it was a first request or a subsequent request, there could be different treatment.

**Senator NETTLE**—Is that a practice that the new government intends to continue with?

**Senator Chris Evans**—As I indicated before, I am in the position of reviewing how we handle ministerial interventions. We have got a range of practices involved—some of which continue the old practice; some of which are to delegate some decisions, and in other cases I have asked for ideas on better ways to handle them. It is a sort of work in progress, as I said earlier. I have now got some independent advice about that and am looking to work out what permanent directions to give the department in each of those categories pending any regulatory or legislative changes I might wish to bring forward. So the answer is that it depends on the category.

The way it works in most categories, and correct me if I am wrong, is that the minister sets and gives direction to the department about how they might treat certain matters. Some of those guidelines I have left as they are but have questioned why they are as they are, and with others I have asked for a slightly different handling of them or what I should or should not see. But we are in the process of trying to work through new arrangements and, as I say, part of that will be the decision about the legislative response, part about regulation response and part about administrative practice. I am keen for the department to take more responsibility for decision making, to lessen the role of the minister in the day-to-day operations, and to also make sure that decisions are transparent and where appropriate appealable.

Within those general principles, we are working our way through the various classes of appeals. It has been the parliament's view in the past that the minister retains some rights to intervene. The classic is on the question of a character test, for instance. The range of matters that get determined by the minister seems to me to have grown to a point where the system is not as transparent as it should be, and, I think, where the department may potentially lose confidence in their own decision making processes, because 'things will get shoved up to the minister, and they will intervene'. There is a range of issues. I have not finalised arrangements for directions on interventions but I am looking to make some changes, and I will make those public.

**Senator NETTLE**—You said there were some where you had given different directions to the department about how they should deal with particular ministerial interventions. Can you outline what those ones are?

**Senator Chris Evans**—I am not sure that I want to do that at this stage—in part because some of them are just transitional. I have asked the department on a couple of occasions to handle things a bit differently while I work out what I want to give as a formal direction. I am not sure that I want to go through that. That is, at the moment, a bit of management between me and the department on a particular sort of case load, where I have not said that I am changing the rules from this to this or the direction from the minister. I do not want to go into the detail of that. It is in flux. I have given you the general principles to my thinking, and I will be providing more direction to the department. They are keen for me to give them that direction; I am keen to get it right.

In my long experience of 11 weeks, I have a slightly different attitude to some things now than I did in the first week or two. Sometimes I am more convinced that my first reaction was the right one; at other times I have questioned it. I have been keen not to walk in on day 1 and say, ‘I know better than everybody else and here are the changes’. We are getting close to a formed view.

**Senator NETTLE**—Mr Illingworth, you were explaining about the ones that did not go to the minister with the previous government. Could you provide the percentage of ministerial interventions that did not go to the minister?

**Mr Illingworth**—I would need to take that on notice. That can be provided.

**Senator TROOD**—Mr Hughes, could you provide us with an update on the refugee numbers in this financial year, as against the expectations. Are you running approximately on track? Where do you expect to be on 30 June, in so far as you can say that?

**Mr Hughes**—In recent years, we have had good success in delivering the humanitarian program. I think we would expect to be on target on 30 June.

**Senator TROOD**—Can you remind me of the numbers?

**Mr Hughes**—The number of new places is 13,000.

**Senator TROOD**—Is that where you expect to be at the end of the year?

**Mr Hughes**—That is correct.

**Senator TROOD**—How many are there so far this year?

**Mr Hughes**—At 31 December, just under 6,000 visas had been granted under the humanitarian program.

**Senator TROOD**—Does that include the refugee and humanitarian visas, all in together?

**Mr Hughes**—Yes, it does.

**Senator TROOD**—Do you have a breakdown of the sources in this program?

**Mr Hughes**—We do. At this stage, 36 per cent of the offshore grants were from Africa, 28 per cent from the Middle East and south-west Asia, about 34 per cent from Asia and the Pacific, and 0.5 per cent from other parts of the world.

**Senator TROOD**—How does that compare with previous years balances, in terms of place of origin?



**Mr Hughes**—For 2006-07 the source distribution as set by the government was 50 per cent from Africa, 30 per cent from the Middle East and south-west Asia and 20 per cent from Asia. The source composition as set by the previous government for 2007-08 was 30 per cent from Africa, 35 per cent from the Middle East and south-west Asia, and 35 per cent from Asia. You will see that the figures I gave you for the half year vary somewhat from those target compositions, but those are still the target compositions that we are working towards.

**Senator TROOD**—By the time we get to 30 June you expect to be, in percentage terms, at the targets which were set for 2007-08?

**Mr Hughes**—Yes; unless the minister makes a different decision that is where we would expect to be.

**Senator ELLISON**—It is fair to say that over the last 10 years there has been a shift in where we have sourced our refugees. They came from Indochina and eastern Europe in the early 80s, former Yugoslavia in the early 90s, Middle East and south-west Asia in the late 90s, and then there was a focus on Africa with that shifting to Asia, as you have mentioned—Asia now comprising 35 per cent. In that Asian focus, are we looking at increased numbers of Burmese and Bhutanese refugees?

**Mr Hughes**—That is correct. Going back a few years there were very significant populations of Burmese refugees in camps in Thailand. However, they were not permitted exit permits to travel internationally for resettlement because it was the view of the Thai government at that time that they did not want to develop a resettlement case load there. After it was agreed between the Thai government and UNHCR that settlement could take place from those camps, the opportunity for us and other resettlement countries to take numbers out of there increased. Hence, Asia as a source region gradually started to increase. Within the past 12 months the opening up of the Bhutanese population in Nepal, who have been there for 10 or 15 years without the ability to get exit permits, has created another opportunity to finalise very longstanding case loads. So Australia, the US, Canada and some European countries have been working very actively to get exit permits for the Bhutanese in Nepal, and that has opened up a new case load for this financial year.

**Senator ELLISON**—You are saying that no action has been taken by the new government to change that. That is what you are operating under now.

**Mr Hughes**—At this stage there has been no change in the program source composition announced by the previous government.

**Senator ELLISON**—As I understand it, the government will be considering this around April, as the minister said. But until then it is the status quo with the Burmese and other components you have mentioned. The Prime Minister said on 5 July last year that tackling poverty in our region was required to tackle, amongst other things, refugees. In fact he spoke of refugees coming from the region to Australia in large numbers. Does the department have evidence of a link between aid to our region and a possible influx of a large number of refugees? If it does have any data on that can it be provided to the committee?

**Mr Hughes**—It is very difficult to provide, if you like, scientific data on the links between those two things that you mentioned. I guess there is much greater likelihood that a refugee population will stay in a first asylum country if they are receiving a high quality of protection

in terms of their rights, their physical and material living conditions, and their security in the first asylum country. We have provided a reasonable amount of money through this portfolio to help stabilise refugee populations in the Asia-Pacific region so the aid program indirectly does that as well. So to the extent that populations are stabilised there is less risk of irregular movement and to the extent that there are orderly resettlement prospects there is also a lower risk of irregular movement.

**Senator ELLISON**—While the minister is here I will jump to a climate change matter which Senator Nettle raised. In a speech in the debate on the Migration (Climate Refugees) Amendment Bill 2007 in the Senate on 9 August last year, Senator McLucas stated:

Labor will establish an international coalition to resettle people displaced by the effects of climate change when a country becomes uninhabitable because of rising sea levels, damage to coastal infrastructure or reduced food security and water supplies as part of our Pacific climate change strategy.

Minister, has any work being done in relation to that coalition?

**Senator Chris Evans**—Senator Ellison, you refer to islands becoming uninhabitable; I am not sure there have been any developments in that regard. I will take that on notice and make some inquiries. If work has been started, it will have been started in the Foreign Affairs portfolio or the Climate Change portfolio. I have no personal knowledge so it would be best to take it on notice.

**Senator ELLISON**—You said earlier that since the introduction of the TPV boat arrivals have gone up. As I understand it, the temporary protection visas came in around 1999—I am open to correction on that. The chart I have shows boat arrivals decreasing since then. Can you clarify that?

**Senator Chris Evans**—The point I am making is that the peak arrival period was following that—around the 2001-2002 period. The figures have decreased now but after the introduction of the TPV we had the peak period around 2000 and 2001, in fact, immediately following that period. From December 2000 until November 2001 we had 6½ thousand boat arrivals, which is over double the number that was intercepted during the corresponding period in 1998-99. The big increase, if you like, came following the TPV introduction. I am not saying that was causal; I am just saying that it did not prevent it.

The other thing that we noticed is that the demographics changed after that period and many more women and children started undertaking the perilous journey. Many more women and children left with the family head, if you like, in those following years. But you are right to say that the numbers then dropped off later, but the peak occurred after the introduction of the TPVs.

**Senator ELLISON**—The graph I have shows there was a reduction in the number of boats arriving between 2000 and 2007.

**Mr Metcalfe**—Certainly the three biggest years were 1999, 2000 and 2001; leading up to late in the year when the previous government put in place a series of measures. It is true that from 2002-03 onwards the numbers dropped very significantly. That is a matter of record. In the three financial years we had the following arrivals: in 1999-2000 there were 4,000 arrivals, in 2000-01 there were 4,137 and in 2001-02 there were 3,043. The figures then dropped back to negligible after that.

**Senator ELLISON**—The dramatic reduction seems to have come after the creation of offshore processing centres and the excision of Cocos, Christmas, Ashmore and Cartier islands. Would you agree with that?

**Mr Metcalfe**—There are a number of policy measures that were taken at that time. You mentioned a couple and there are some others, including increasing the penalties for people smuggling, a very active process of seeking to locate and prosecute people smugglers, and a very significant process of cooperation with authorities in the region, including international authorities and other governments—particularly the government of Indonesia.

**Senator ELLISON**—In relation to the case of Vivian Solon, as I understand it there was a substantial payment made for damages for wrongful detention—is that right?

**Mr Metcalfe**—That is correct.

**Senator ELLISON**—Then I think there was some negotiation dealing with the payment of her ‘costs reasonably and necessarily incurred’, and that went to arbitration. Is that correct?

**Mr Metcalfe**—Yes. If you want to ask a series of questions on this issue, I might ask the head of our litigation area to join me. Can I just add to my earlier comment: the other major development that occurred around 2001 was the invasion of Afghanistan by the coalition forces, and there was a very substantial change in government with the defeat of the Taliban. That, of course, led to the return to Afghanistan of some millions of refugees, and that did have a major causal effect on the pool of people seeking unauthorised entry to Australia, given that a significant proportion of those unauthorised arrivals were from Afghanistan, or were Afghans living as refugees in Pakistan and elsewhere.

**Senator ELLISON**—But there was still a substantial number of people coming from other countries as well?

**Mr Metcalfe**—The two largest cohorts were from Iraq and from Afghanistan; and, of course, there have been significant regime changes there since that time.

**Senator ELLISON**—I return to the Vivian Solon case. On 12 October 2007, the *Australian* newspaper reported the dispute over legal costs, in particular highlighting Mr Newhouse’s claim. It noted that there was a claim for 30.5 billable hours for a single day. The article noted that the cost issue would be resolved by way of a cost assessment in the Supreme Court. Has that been dealt with?

**Mr Eyers**—No, at this stage Ms Solon’s lawyers are currently revising their bill of costs, and following receipt of their bill of costs the matter will then be referred for assessment to the Supreme Court.

**Senator ELLISON**—When you say Vivian Solon’s lawyers, who are you referring to?

**Mr Eyers**—It includes Mr Newhouse, Milne Berry Berger & Freedman, and Mr Einfeld.

**Senator ELLISON**—Mr Einfeld as well. Does the department know whether Mr Einfeld had a practising certificate during the time that he was acting?

**Mr Eyers**—There was a period where I understand that he did not have a practising certificate.

**Senator ELLISON**—Has there been any action taken as a result of that?

**Mr Eyers**—Not by the department.

**Senator ELLISON**—But effectively he is claiming fees from the department during a time in which he did not have a practising certificate—

**Mr Eyers**—We are waiting to see what their revised bill says about that.

**Senator ELLISON**—What about the firm that you mentioned—

**Mr Eyers**—Milne Berry Berger and Freedman?

**Senator ELLISON**—Yes. There was an agreement, I think between them and their client, in relation to a conditional cost agreement with her. Are you aware of that?

**Mr Eyers**—Yes, Senator.

**Senator ELLISON**—Is that a valid agreement? Has the department assessed whether that is a valid agreement?

**Mr Eyers**—That will be a matter that will be dealt with in the assessment in the Supreme Court.

**Senator ELLISON**—Obviously that would be a concern to the department if the agreement between solicitor and client was invalid. Would that be something that the department would raise through its counsel in the Supreme Court? You say that it is going to be assessed, but it will not be canvassed—

**Mr Eyers**—It will certainly be one of the items that will be addressed in the assessment, yes.

**Senator ELLISON**—Because it can only be assessed if it is raised. So it is up to the department to raise it, isn't it, unless the client protests?

**Mr Eyers**—I am presuming they would prepare their bill on the basis of what their advice is regarding the legality or enforceability of that cost agreement. If they prepare their bill on the basis that it is enforceable, then we will have to take our advice.

**Senator ELLISON**—We will wait and see. Has the date been set for that assessment?

**Mr Eyers**—No.

**Senator ELLISON**—It can only be found when—

**Mr Eyers**—We have got to get their revised—

**Senator ELLISON**—Is there a time limit for that within the rules under which they have to do that?

**Mr Eyers**—No, because it was arbitration, there is no—

**Senator ELLISON**—Thank you. Is there consideration of decoupling the onshore and offshore components of Australia's Refugee and Special Humanitarian program?

**Mr Hughes**—That is really a matter of policy and government considering what they are doing in the 2008-09 and onwards.

**Senator ELLISON**—We will reserve that for the minister when he returns. There was an agreement with the United States, a mutual assistance agreement. It is simply, I think, an informal agreement that was finalised by an exchange of letters. Is that still in existence?

**Mr Metcalfe**—It is still in existence in that the exchange of letters has not been varied or terminated, Senator. It has not been actioned or activated and it is not my expectation that it would be. One reason for that is that it essentially assumed that there would be a cohort of persons that Australia would seek to resettle, those persons being in an offshore processing centre, in other words, Nauru or Manus. Given that there are no persons in those centres and those centres are being shut down, the necessary precondition for that agreement is no longer in place.

**Senator ELLISON**—That would close down the option for resettlement in a third country?

**Mr Metcalfe**—That is right. No-one was ever resettled under that option. But effectively the potential case load no longer exists from our perspective.

**Senator ELLISON**—Are there any reviews proposed in relation to protection visas onshore?

**Mr Metcalfe**—The minister spoke early about the issue of temporary protection visas. Apart from that, there is nothing that I am aware of that is under way or proposed.

**Senator TROOD**—Following up on that, in relation to this United States arrangement with the exchange of letters, do the letters contain a provision for the termination of the arrangement or do they not?

**Mr Metcalfe**—I would have to check. My recollection is that they did not. But the usual expectation is that if either side wished to formally withdraw then they would give a period of notice. That is the usual protocol. But effectively there has been a change in circumstances and our colleagues in the United States are aware of that change in circumstances in Australia.

**Senator TROOD**—I understand that point. Was the arrangement a time-bound arrangement?

**Mr Metcalfe**—My recollection—and I will correct this on notice if I am wrong—is that the exchange of letters indicated that the arrangement would be reviewed after a period of two years.

**Senator TROOD**—When does that period expire?

**Mr Metcalfe**—The letters were agreed in April last year, so that is another 12 months or so.

**Senator TROOD**—2009.

**Senator NETTLE**—I would like to ask some questions in 1.3 about IOM funding, but before I do that, I will ask about the Afghan housing project first.

**Mr Metcalfe**—That is in 1.2, I think.

**Senator NETTLE**—It was announced in May 2005 that \$4 million would be allocated to persuade Afghan asylum seekers on Nauru to return. When I asked about this at the last

estimates, in May last year, the answer was, 'We're getting pretty close to the first digging of the hole.' I am wondering if there is an update.

**Mr Metcalfe**—Has the hole been dug?

**Senator NETTLE**—That is right.

**Mr Hughes**—It looks like we are getting very close to digging the hole. We have discovered that managing a project of this type in Afghanistan is very challenging. The preparation for AliceGhan commenced in October 2006. The land on which the project is to be built was committed since that time. There have been delays in the commencement of construction, as you have referred to. The latest timetable is now that it will commence in March 2008, and the estimated completion time is in 2009.

**Senator NETTLE**—Do you have a 'when' in 2009?

**Mr Hughes**—I do not have that in front of me.

**Senator NETTLE**—Do you think there will be some lessons learnt from this one?

**Mr Hughes**—There could be. It is probably best that we discuss that after the project has been completed.

**Senator NETTLE**—When the project was initially set up, it was about encouraging Afghans to leave Nauru. Is it still intended to continue with the project?

**Mr Hughes**—Aside from the question of Afghans on Nauru, the government has committed a number of amounts of money to the general question of reconstruction, rehabilitation and assisting return of displaced people to Afghanistan from any part of the world. As you know, Afghanistan has been one of the major repatriation situations in the world. In the last figures I looked at, 4.8 million people had returned to Afghanistan. The figures seem to grow every time you look at them. It could possibly be over five million now. We have regarded the AliceGhan project as part of the contribution to Afghanistan to help with accommodation for returnees, because accommodation has been one of the biggest problems.

**Senator NETTLE**—How many people is it intended to accommodate?

**Mr Hughes**—Fourteen-hundred families.

**Senator NETTLE**—I will ask next time if the first hole has been dug. I now have questions about IOM in Indonesia.

**Mr Hughes**—I would like to add a postscript in terms of some of the issues in Afghanistan—not to make too lightly of the problems of a project of this kind. Some of the problems arose from a need to change the site, because of fundamental problems of water supply and existence of old landmines in the area.

**Senator NETTLE**—You gave some answers on notice to questions about what projects were being funded under IOM in Indonesia. There was a question on notice about that. Has there been any change since that question on notice was answered. Would you like me to tell you which one it is?

**Mr Metcalfe**—That would help.

**Senator NETTLE**—Question 73—it was from Senator Ludwig.

**Mr Metcalfe**—This was from budget estimates last time around?

**Senator NETTLE**—Yes, May last year.

**Mr Metcalfe**—We will look at that question and perhaps come back during the course of the hearing today and let you know if there are any changes.

**Senator NETTLE**—Questions 69, 73 and 74 have more detail about the IOM projects as well.

**Mr Metcalfe**—We will look at those and update you later.

**Senator NETTLE**—I would like any updates on those, and an update on the amount of funding to IOM in Indonesia from Australia—do you have that?

**Mr Metcalfe**—We can provide that to you when we respond in relation to the substantive issues.

**Senator NETTLE**—I imagine there may be an update from when those answers were provided.

**Mr Metcalfe**—There certainly was provision in last year's budget, and we can report on that.

**Senator NETTLE**—I want to know whether Australia has funded the construction of immigration holding facilities in Indonesia for use by the Indonesian immigration department?

**Mr Metcalfe**—That is one of the projects that IOM is assisting with. It is enhancing the facilities that currently exist, and so that is an issue that we can cover when we respond in relation to the overall level of funding for IOM's activities in Indonesia.

**Senator NETTLE**—I am interested to know whether that includes a quarantine facility on Macassar Island? Do you know about that?

**Mr Metcalfe**—We will take that on notice as well, and try to answer that when we respond.

**Senator NETTLE**—I will have some more questions on that if we are able to get to an answer.

**Mr Metcalfe**—It might be after the dinner break that we will have had the chance to do that.

**Senator NETTLE**—I note that in previous answers you have said that Australia is funding IOM programs that seek to return migrants to their country of origin. I wondered if there could be a little bit more explanation about that, in particular about what safeguards are put in place to ensure that people are not returned by IOM—not by Australia, but given that we are funding the programs—to dangerous circumstances, or involuntarily. What sort of safeguards are there?

**Mr Hughes**—One comment that I would make is that IOM's constitution prevents it from being involved in involuntary returns. They can only participate in voluntary returns.

**Senator NETTLE**—And what about returns to dangerous circumstances?

**Mr Hughes**—The return must be voluntary and I think IOM also regards that they do have the interests of migrants at heart as part of their charter.

**Senator NETTLE**—I want to know about what plans there are for bringing to Australia asylum seekers currently in IOM facilities in Indonesia. I know there have been some media reports about that. Can you give me an update on that?

**Mr Hughes**—As you know, over some years from 2001 onwards, the previous government had resettled a considerable number of persons in Indonesia who had been found to be refugees by UNHCR. In addition, in the latter part of last year, the previous government agreed to bring to Australia a smaller group of people who had not been found to be refugees but had some family links in Australia. The numbers were roughly 120—I would have to check that for you.

**Mr Metcalfe**—The figure I have is that since late 2001 Australia has resettled 305 people who have sought asylum in Indonesia and who have been determined by the UNHCR to be refugees. But Australia is also in the process of resettling a further 117 people who have not been found to be refugees but who were found by the UNHCR to be in need of international protection. Eighty-six of those people have already been resettled with the remaining 31 to follow soon. I do not have a date on that brief, but it was prepared for these hearings so it is an up-to-date figure.

**Senator NETTLE**—Are we getting the actual minister back?

**Mr Metcalfe**—I understand he will be back in about half an hour to 45 minutes.

**Senator NETTLE**—I might wait then. He is the one who has just been to Indonesia, rather than Senator Ludwig.

**Senator Ludwig**—No, I have not been to Indonesia recently.

**Senator NETTLE**—Do I ask questions here about section 189 of the Migration Act?

**Mr Metcalfe**—You might have to enlighten me. I know my numbers, but 109—

**Senator NETTLE**—Section 189.

**Mr Metcalfe**—No, 189 would be for output 1.3. That is the requirement that officers detain a person who does not have a visa or is reasonably suspected of not having a visa.

**Senator NETTLE**—Yes, but we are in output 1.3 now, aren't we?

**Mr Metcalfe**—We are still in 1.2, I think. Certainly the refugee issues and the issues we have just been discussing are in output 1.2.

**Senator NETTLE**—I think that question will be better left to the minister anyway.

**Senator ELLISON**—The questions on the IOM are at output 1.3, aren't they?

**Mr Metcalfe**—In relation to their overseas activities, ordinarily that would be under output 1.2 and the discussions we have had with Senator Nettle I was regarding as being under output 1.2. That goes to overall international operations relating to refugees and humanitarian entrants. Output 1.3 goes to the enforcement of immigration law. We do have some



relationships with IOM in Australia in relation to counselling of people who have no options to stay in Australia, so it depends a little on which subject matter you want to go to.

**Senator ELLISON**—It has a foot in both camps. Has the government commenced any reviews or examined options for cutbacks in our border management system?

**Mr Metcalfe**—That would take us into output 1.3 as well. Chair, it looks like we are heading to output 1.3, which would take us to border security.

**CHAIR**—Have we finished question on output 1.2?

**Senator NETTLE**—Yes, I think so. I had some that I would like to ask the minister but I will wait, given that he is not back.

**Senator ELLISON**—I asked one on policy, but we are waiting for the minister to get back. So as agreed we will wait until he returns and ask those questions.

**Mr Metcalfe**—We will keep those officers available.

[4.48 pm]

**CHAIR**—Then we will formally move to output 1.3, Border security.

**Senator ELLISON**—Have there been any reviews commenced or options examined for cutbacks in border management systems?

**Mr Correll**—There have been no reviews or cutbacks in border management systems. There is currently work underway to complete a border security initiative system involving both the immigration department and the Attorney-General's Department to improve information flows between the department and ASIO and to facilitate improved security-checking processes. That project is part complete at present and is due for completion in July this year.

**Senator ELLISON**—If there is anything here that the minister needs to answer, we can leave it until he gets here, but during the recent visit it was announced that there was good progress made in joint initiatives, including English language training for airport officers at the directorate-general of immigration, the placement of a native English language speaker from Australia in the ministry for law and human rights training academy and a program of training in immigration data analysis and reporting. Are these all new initiatives with Indonesia? What is the funding for these initiatives?

**Mr Correll**—This is probably going back into some territory in 1.2, relating to international initiatives with Indonesia associated with capacity building. My understanding is that that is being done within existing budget allocations.

**Senator ELLISON**—The minister has also welcomed the progress made in implementing a joint border movement alert computerisation project at five major ports in Indonesia. Am I correct in understanding that that was an initiative of the previous government?

**Mr Metcalfe**—That is correct.

**Senator ELLISON**—Is that initiative being continued?

**Mr Metcalfe**—Yes, it is. I was in Indonesia with Minister Evans, and we were very pleased to see a demonstration of the system—the so-called CEKAL system—which

essentially is the computerisation of their immigration watch list, similar to the movement alert list and PACE systems operated by Immigration and Customs in Australia. It is to cover the five major ports, acknowledging that Indonesia has well over 100—possibly 200—ports of entry. The system will certainly cover the largest ports, covering 80 per cent plus of all passengers. It is something that is now being moved into implementation phase, and we are very pleased that it has made the progress that it has.

**Senator ELLISON**—Good. You mentioned the cooperation of The International Organisation for Migration. This question is in the area of border protection, if you can put it that way, which would be intercepting people before they engage in risky people-smuggling ventures? Is there any review of any expenditure in that regard? Is our cooperation still continuing without any cutback?

**Mr Metcalfe**—It is. Like all our programs, it is subject to ongoing review and analysis. There was a particular initiative last year that expanded the ability of IOM to cover more parts of the archipelago and to work closely and provide training with local immigration and police officials. We received a report about that in January. That appears to be progressing very effectively. It is a good measure. It has the important benefit of seeking to ensure that people do not risk their lives getting on dangerous vessels and falling into hands of people smugglers while at the same time ensuring that if they do have asylum claims the UNHCR is able to access those people and ensure they are properly considered.

**Senator ELLISON**—I think that the Indonesians justice minister indicated that good progress was made on the minister's visit and that followed on from the foundations set by previous ministers, if I recall correctly.

**Mr Metcalfe**—That is correct. As I alluded to before, I think one of the key measures over the last 10 years in relation to this whole area has been an improvement in international cooperation, and the Australia-Indonesia relationship has certainly improved in strength and depth. That is a credit to prime ministers and ministers of both the current government and the previous government.

**Senator ELLISON**—The work fact that the department does overseas is quite crucial, I think—and I have asked about the CEKAL system—but there is also the roll-out of border management systems in places like New Guinea, Vanuatu, Tuvalu—are we still continuing with those sorts of things?

**Mr Metcalfe**—Yes.

**Senator ELLISON**—We have got training programs. I think we have a training program on immigration intelligence, documentation and the like and at last count it concerned around about 16 countries. Is that all going ahead as usual?

**Mr Metcalfe**—All those measures are continuing, and it is my hope that we will be able to build on that into the future.

**Senator ELLISON**—I think there was a document laboratory being looked at in Thailand, which is renowned for a great deal of the counterfeit documents flooding the region, if I can put it that way. Are we still proceeding with looking at that?

**Mr Metcalfe**—I have no information to suggest otherwise. That is not something that I have personally seen. I have seen a similar capability that we have provided to our counterparts in the Philippines—I saw that personally early last year—but if there is any indication to suggest that our efforts with Thailand have not progressed as planned I will respond to you on notice in relation to that. Certainly I have heard nothing to indicate that there is any problem with that; it is just that I do not have personal knowledge.

**Senator ELLISON**—Thank you for that. Another area that the department was engaged in, I think, was work on upgrading the border network in Laos.

**Mr Metcalfe**—That is correct.

**Senator ELLISON**—Is that still being progressed?

**Mr Metcalfe**—Yes, it is.

**Senator ELLISON**—We have had the two Bali roundtables on people-smuggling and human trafficking. How is the progress of all that going?

**Mr Metcalfe**—I will see if the relevant officer with that particular experience is available. That was a very important initiative co-chaired by Australian and Indonesian foreign ministers and it has continued with a whole series of workshops and activities. I have not briefed myself recently in relation to it but Mr Hughes might be able to provide some further information.

**Senator ELLISON**—Thank you. I am very interested in this process; I had some involvement in it.

**Mr Hughes**—Briefly, the Bali process continues. Like all such processes that have been in operation for a number of years, after a period of time there is a question of renewing and breathing further life into the process. We still have an Ambassador for People Smuggling Issues in the Department of Foreign Affairs and Trade and we are working with the Department of Foreign Affairs and Trade to see what new initiatives we can add to the ongoing work of the Bali process.

**Senator ELLISON**—We had an Ambassador for People Smuggling Issues, did we not?

**Mr Hughes**—We still do.

**Senator ELLISON**—Who is that?

**Mr Metcalfe**—Mr Michael Potts, who previously had been high commissioner in Papua New Guinea.

**Senator ELLISON**—Are there any new initiatives on the table in relation to border control and particularly eradicating people-smuggling, deterring secondary movement and more of that offshore intervention?

**Mr Metcalfe**—That is something that you might like to address to the minister as it goes to policy. The minister is obviously considering many issues and that is one of them.

**Senator ELLISON**—There is an Office of National Security—what role will the department play in that?

**Mr Metcalfe**—The Office of National Security, as I understand, is effectively a division within the Department of the Prime Minister and Cabinet and it has responsibility for all

issues relating to national security from a policy coordination perspective. It would include as part of that both border security and border protection. The department is one of a number which work very closely with the Office of National Security and through it we work closely with counterpart agencies such as Customs and the Federal Police and the intelligence community, the Department of Defence, the department of transport and the Attorney-General's Department, because these issues, as I am sure you are aware, are quite often moved across portfolios and a whole-of-government consideration is required. It is my understanding that the Office of National Security will play that role of bringing these issues together and ensuring that they are focused on centrally at the highest levels of government.

**Senator ELLISON**—Is there any submission that the department has made on it? Is it as formal as that?

**Mr Metcalfe**—No, as far as I understand, the Office of National Security was brought into existence and effectively is an iteration of the National Security Division which existed within the department. But obviously, in relation to any reviews or consideration of issues in this area, the department will be fully engaged in contributing.

**Senator ELLISON**—The creation of a department of homeland security is the subject of some inquiry, I understand. I think Mr Ric Smith is looking into that.

**Mr Metcalfe**—That is my understanding, and that is an issue that has been essentially progressed through the Prime Minister's portfolio as a major review.

**Senator ELLISON**—Is the department having any input into that?

**Mr Metcalfe**—Yes, we will.

**Senator ELLISON**—Has there been any indication as to whether the department will be included in such a department if it is created?

**Mr Metcalfe**—No, there has not.

**Senator ELLISON**—I think Kim Beazley, in his address to the Sydney Institute when he was Leader of the Opposition, said he thought immigration should be outside that.

**Mr Metcalfe**—We obviously noted carefully what senior politicians have said around the issue. The government, of course, established administrative arrangements upon coming to government, and we remain a department of state. The issues of administrative arrangements and coordination I think are the areas that Mr Smith's review will provide advice to the government on. I think the Prime Minister has said that he has got quite an open mind on those issues, and that is essentially the reason that the government decided not to proceed in any particular direction immediately but has asked for a full canvassing of the issues.

**Senator ELLISON**—Are you aware when that report is due to be given to government?

**Mr Metcalfe**—I am not. I have not seen the particular terms of reference, but I think it is during the course of this year. If you wish to, you might want to address questions on that to the Department of Prime Minister and Cabinet.

**Senator ELLISON**—On the review of a coastguard—and it seems more like it is a stepping-back from a coastguard and sticking with what we have got—has the department made any submission to government on the question of a coastguard or not?

**Mr Metcalfe**—No, we have not.

**Senator ELLISON**—The Border Protection Command would be an area of great interest to the department, though, would it not?

**Mr Metcalfe**—It certainly is, and we clearly work very closely with Border Protection Command, given that it essentially provides jointery and fusion between the Australian Customs Service maritime and aviation surveillance capabilities, together with the Australian Defence Force. It is an institution that we work with closely. I am not too sure whether Mr Smith's review goes to that issue as well. As I have said, that is an issue you may wish to address to the other portfolio.

**Senator ELLISON**—So, Minister: all those years you hammered the government over a coastguard and homeland security, you have won government and now you are having an inquiry into whether you should have it.

**Senator Ludwig**—We are taking a responsible and appropriate course to ensure national security continues, and the review will be undertaken to ensure that we come out with a best outcome.

**Senator ELLISON**—I will tell you how to carry on a responsible approach, and that is just continue doing what we were doing. I must say, I found it rather interesting. Mind you, it never ceases to amaze me. But, to move on, you have said that you are having input into this inquiry in relation to the department of homeland security, and it is fair to say that you will be a major contributor to that.

**Mr Metcalfe**—Yes. We have not yet formulated or made any submissions, or been asked to make any submissions, but it is certainly my expectation from the conversation I have had with Mr Smith that we would provide some input. We have seconded a senior executive service officer to assist Mr Smith, not particularly because of his immigration expertise but because of his personal capabilities. He is a very, very capable officer, so he has been seconded to assist Mr Smith, but I am sure he will bring a perspective of the issues from our portfolio to the review.

**Senator ELLISON**—And to make it clear: you have not had any request for input on whether Australia has a coastguard or not?

**Mr Metcalfe**—We have not been asked about that issue, Senator.

**Senator ELLISON**—Has the department been consulted or asked to participate in any work on the government's defence white paper?

**Mr Metcalfe**—Not at this stage. It is very early days, I think.

**Senator ELLISON**—Are there any working groups or interagency standing groups that the department is involved in at the moment?

**Mr Metcalfe**—Many, many, Senator.

**Senator ELLISON**—It has not changed.

**Mr Metcalfe**—If you like to go fishing, that is a good place to go fishing. We obviously interact with many departments on many issues. There is the stakeholder engagement map, which others have said bad things about, but it does indicate that we have got a range of

policy interests—economic and social policy, security policy—and therefore we are on many working groups and interdepartmental committees.

**Senator ELLISON**—Not as a result of your invitation to go fishing, because I was going to ask this anyway, but can I have a list of those on notice?

**Mr Metcalfe**—I would hesitate to agree to that—

**Senator ELLISON**—There cannot be that many, can there?

**Mr Metcalfe**—There are quite a few. Can I take it on notice? I flag that I expect that there would be many and I would want to ensure that there is not an unreasonable diversion of resources to locate each one. Certainly some of the more significant interagency bodies are things that we could comment on, but we do engage with many people on many issues, quite properly, and to try to have an exact accounting of each of those things may be a reasonably resource intensive task. Having given that caveat, we will of course try to assist.

**Senator ELLISON**—Thank you. In his speech on national security on 5 July the Prime Minister, when he was Leader of the Opposition, said:

Most alarmingly for Australia, some 1.8 per cent of PNG's population aged 15-49 is now infected with the HIV/AIDS virus—approximately 100,000 people.

Is the department considering any additional health screening for people travelling from PNG to Australia?

**Mr Metcalfe**—Not that I am aware of.

**Senator ELLISON**—Is the government reviewing the health screening, and specifically HIV screening and entry policies related to that?

**Mr Metcalfe**—I am not aware that the current government has yet sought to address that issue. It was an issue that was considered of course by the previous government and I think that the additional estimates actually provide some additional funds for the department in relation to that issue.

**Senator ELLISON**—One program close to my heart is the Airline Liaison Officer Network, and I think they do a very good job overseas. Funding of over \$12 million was provided for that and I think there were new placements to take place last year. Have they all gone ahead?

**Mr Metcalfe**—While we are answering that question, I can advise you in relation to the previous question that the additional estimates provide \$6.7 million for strengthening immigration health screening including onshore activities relating to health undertakings, waivers and the health matrix, which is a risk matrix. That is an initiative of the previous government which has been confirmed by this government and included in the additional estimates.

**Senator ELLISON**—Good, thank you.

**Mr Metcalfe**—As for airline liaison officers—

**Mr Correll**—We currently have approximately 20 airline liaison officers in 14 different airport locations around the world.

**Senator ELLISON**—Do you have those locations?

**Mr Correll**—Yes, I can give these to you. They are in Bangkok, Denpasar, Dubai, Hong Kong, Jakarta, Johannesburg, Kuala Lumpur, Manila, Nadi, Port Moresby, Seoul, Shanghai and Singapore.

**Mr Metcalfe**—I just want to indicate for the people smugglers who might be listening to these estimates hearings, that we seek to be flexible in relation to that particular initiative. So it is possible that other airports may be the subject of this activity, from time to time. We approach all of these issues on a risk based approach. The Airline Liaison Officer program is what I would describe as a very mature program. Its 20th birthday will be next year, and we have found over the years that it has provided a very effective way of essentially pushing the Australian border back to the point of embarkation for Australia, rather than having to deal with those issues upon arrival. It has not only ensured that some persons seeking to use fake documents to travel to Australia are stopped but also proved to be a major way of facilitating genuine travellers who may have mislaid a document or got confused. So it has been a major facilitating measure for genuine travellers and a major deterrent to people using false documents. It is a program that has been very successful over many years.

**Senator ELLISON**—I agree. That is the reason for my next question: has this been cut back in any way? It is not subject to any reduction of overseas staff that we have seen in other places, is it?

**Mr Metcalfe**—No, as I unexplained in the initial questions we had this morning about our budget situation, essentially the various ‘ons’ and ‘offs’ that have occurred and are reflected in the additional estimates make me confident that our budget position this year is sustainable. The issue is the out years, the application of the efficiency dividend and the results of the agency health check—they are all issues that need to be taken into account in framing budgets within the portfolio for next year. That is not a matter that I can really comment about until the final budget position for the department is known later this year.

**Senator ELLISON**—In relation to general people smuggling—and I do not want to step into operational areas—we do have a threat matrix which deals with countries in the region and the potential for maritime people smugglers. Does it include illegal entrance through air travel as well?

**Mr Metcalfe**—In assessing risk, deployment of staff and operational activities we take all measures into account: the potential for unauthorised arrivals by sea, visa fraud or false documentation and so on. It is quite an all-embracing approach.

**Senator ELLISON**—Are you able to say what the threat levels are for each country?

**Mr Metcalfe**—I prefer not to, unless you really want it.

**Senator ELLISON**—Perhaps we could put it this way: are they the same as they were in May last year?

**Mr Metcalfe**—I do not think there has been any major change in circumstances, but clearly international events in some countries may lead to an increased potential for illegal travel. But I do not think it is really appropriate to go into those issues. You could probably imagine what I am talking about.

**Senator ELLISON**—It would be fair to say that it is still an issue for the region: people smuggling generally?

**Mr Metcalfe**—Yes, it is.

**Senator ELLISON**—The threat of it is still there?

**Mr Metcalfe**—It is. And I think it was in recognition of that very fact that Minister Evans chose, very soon after being sworn in as minister, to travel to Indonesia to ensure that the good working relationships that we have continue and are enhanced.

**Senator ELLISON**—I totally agree with that. It is a very important issue. In relation to people smuggling, obviously the department works closely with the Australian Federal Police—and, you mentioned earlier, there is a review on the exchange of data.

**Mr Metcalfe**—That exchange of data is with ASIO, not with the AFP.

**Senator ELLISON**—Sorry, I thought it was the AFP as well, but it is only ASIO.

**Mr Metcalfe**—That is essentially in relation to the security checking requirement for visas from certain countries. It was an initiative announced by the previous prime minister in July or August last year from memory—the border security initiative.

**Senator ELLISON**—The Jakarta Centre for Law Enforcement at Semarang has had one workshop on people smuggling, but it is perhaps a best practice of law enforcement cooperation in the region. Has any thought been given to Australia sponsoring a workshop on people smuggling again? It was, I think, a couple of years ago that the French did it.

**Mr Metcalfe**—I will have to check as to whether there has been anything particularly proposed for JCLEC. But, as I think you indicated from the questions you asked earlier, we continue to have a series of workshops and various other things, largely with immigration officers. That has been done both bilaterally as well as on an ASEAN-wide basis. The issue of whether there would be benefit in a similar workshop being repeated at JCLEC is something that we would obviously discuss with the AFP and we are always open to that suggestion if it is thought worth while.

I would note that there are quite exceptional levels of cooperation evident between our staff and Federal Police and other staff in the embassy in Jakarta. So at that local level the expectation that agency heads back in Australia have is that our staff get on and work together seamlessly, and that is very much the case.

**Senator ELLISON**—Does that extend to the Customs post that we opened in Jakarta which is looking at border movement?

**Mr Metcalfe**—That is correct. Certainly when I was in Jakarta with the minister a month ago we met with the attached departments and agencies that are involved in this issue, and the Customs counsellor was part of that discussion.

**Senator ELLISON**—In relation to the movement alert system, are there any proposed changes, including funding changes, to that?

**Mr Metcalfe**—Apart from the border security initiative, which Mr Correll mentioned earlier, which would potentially impact on the Movement Alert List, it is really situation normal.



**Mr Correll**—The only variation from that is in relation to the way we are managing the operation of the alert list. There are some system improvements being made to it under a project called CMAL, the central movement alert list project, within the department.

**Senator ELLISON**—What role does the department have in Australia's regional Counter-Terrorism Capacity Building Initiative?

**Mr Metcalfe**—Some of the initiatives that go to border security trace back to some of the regional counterterrorism initiatives. As well, some of the funding that has been provided for various projects has come through those particular initiatives. I do not have the details in my head or a briefing in front of me as to specifics but, if you would like, we could take that on notice.

**Senator ELLISON**—Yes, and also whether the level of contribution or participation by the department will continue, or whether that—

**Mr Metcalfe**—Certainly that is our expectation and I have heard absolutely nothing to the contrary.

**Senator ELLISON**—Does the department have any involvement in the Global Document Examination Network?

**Mr Frew**—We have a couple of document examiners who are posted overseas at our missions in a couple of countries. They are working with both the host governments of the countries in which they reside and regional countries in terms of training et cetera. Forgive me, but I am not entirely familiar with the global document examination network that you describe.

**Senator ELLISON**—The officers you have are involved in training, did you say?

**Mr Frew**—Yes, they are.

**Senator ELLISON**—When that training is delivered, are they delivering it through the local authorities? How do they do that? I thought that was under the global document examination network, which is an international group built to fight counterfeits.

**Mr Frew**—These are resources of ours that are working in a capacity-building arrangement as organised by other countries et cetera.

**Senator ELLISON**—On a local basis, one to one?

**Mr Frew**—Yes. We are providing training to the document examiners of other countries.

**Mr Metcalfe**—The department extends funding scholarships or training for some officers to undertake a graduate diploma in forensic documentation examination at the Canberra Institute of Technology. I have met a number of staff from our counterpart agencies overseas who are currently engaged in that particular program and who are obtaining a level of skill so that not only are they expert in identifying discrepancies in documents but are able to give evidence in relation to that as expert witnesses in court. That is an initiative that has been very positive. Our capacity-building efforts range from having some expert officers located in a couple of missions in a region providing information to very large numbers of staff of counterpart agencies to taking some specialist staff and giving them a high level of capability as well.

**Senator ELLISON**—That is all from for 1.3, apart from that one question that had to be referred to the minister. I also have one from 1.2.

**Senator Ludwig**—It was a direct question in relation to the visit to Indonesia, as I understood it.

**CHAIR**—We are just waiting for Minister Evans to come back.

**Senator ELLISON**—Apart from those two, I have finished.

**CHAIR**—We might now move to output 1.4.

**Mr Metcalfe**—Senator Nettle’s question about section 189 fits into 1.4.

**CHAIR**—That does not mean that we have finished with 1.3. We are just waiting for Minister Evans to come back.

**Mr Metcalfe**—We will stay here.

**CHAIR**—We will move to output 1.4, compliance.

**Senator NETTLE**—My questions are for the minister.

**Senator ELLISON**—I have a couple of questions for the minister, but while we are waiting—I think that he will be here relatively soon—I have questions on 1.4.2, status resolution. How many requests for ministerial intervention are currently in the minister’s office?

**Mr Hughes**—We will need to take on notice how many ministerial intervention requests are in the minister’s office. You might recall that Minister Evans said that he was reviewing his approach to ministerial intervention and therefore we would not have the numbers of intervention cases in his office now that we might normally have in a minister’s office, pending him coming to a view on how he intends to handle cases in the future.

**Senator ELLISON**—How many are with the department?

**Mr Hughes**—There would be about 2,400 intervention requests under section 417 in various stages of processing within the department.

**Senator ELLISON**—You are saying requests for ministerial intervention are held up because you are waiting to see what is decided in the minister’s review of his intervention role. Would that 2,400 have intervention requests contained within it because of the review by the minister of the role of the minister?

**Mr Hughes**—I am not quite sure of the specific question.

**Senator ELLISON**—You say there are some requests with the minister’s office, but you cannot say how many, and you take that on notice. There is this number of 2,400 in the department; is it the case that some of them just have not been sent on to the minister’s office and they have stayed in the department because the minister is reviewing his role?

**Mr Hughes**—That is correct. With some of them, processing is occurring in the department, but they have not been sent on as yet.

**Senator ELLISON**—How many section 501 cancellations has the minister considered?

**Mr Metcalfe**—Just before we answer that, I am just a little concerned that we might be jumping around between several different concepts, all which are quite easily able to be confused. So I do not in any way criticise you. If I could just clarify: under 1.4.2, that program covers an initiative known as the community care pilot, which is the resolution of the status of persons who may have been found to have been unlawfully in Australia. Part of that status resolution may be an intervention request, which we have just been talking about, but it could also involve the resolution of their status that they simply have no grounds to remain in Australia and they should go home. This is a particular initiative where we are seeking to move rapidly to assist people, outside of a detention environment, to resolve their immigration status, whether they stay or go. The figures that we have just provided were intervention figures under, I suspect, section 417 of the Migration Act, which is intervention following a refusal decision by the Refugee Review Tribunal.

**Senator ELLISON**—Okay.

**Mr Metcalfe**—You just mentioned section 501, which is yet another area of decision making. That is visa cancellation of permanent visas, usually, on character grounds but it can, in fact, be any visa on character grounds. I am just concerned that we should not compare apples and pears in our discussions.

**Senator ELLISON**—Is this not the right output for section 501?

**Mr Metcalfe**—If you wanted to ask questions about section 501, this is the broad area, but I just would not want you to confuse section 501—which is a power exercised by the minister or a senior delegate—with section 417.

**Senator ELLISON**—No, I regard it as a discrete area.

**Mr Metcalfe**—Thank you, Senator Ellison. I just did not want to confuse you.

**Senator ELLISON**—So how many section 501 cancellations has the minister considered?

**Mr Metcalfe**—We will check and correct this. As far as we are aware, the minister has personally considered one such case. But, as he indicated earlier, he has adopted a practice which had been the practice under some previous ministers of asking a senior departmental officer—in this case the relevant deputy secretary—to undertake that decision-making. Section 501 is a power that can be delegated, whereas the intervention action under section 417 is non-delegable.

**Senator ELLISON**—Can that 501 involve revocation of citizenship on the basis of fraud?

**Mr Metcalfe**—No, it is a separate power in the citizenship act in relation to the revocation of citizenship. That is a power in a separate piece of legislation, in the Australian Citizenship Act 2007. Section 501 deals with the cancellation of a visa on character grounds.

**Senator ELLISON**—So it is only of a visa, on character grounds.

**Mr Metcalfe**—It is of a visa; that is right. It is possible that those powers may all interplay. Say, for example, that citizenship was obtained by fraud, there was a successful prosecution in relation to that and that gave grounds for cancellation of citizenship, which then in turn led to consideration of the person's underlying visa status. So there are a related series of powers, depending on the individual circumstances.

**Senator ELLISON**—I am not sure whether this is relevant; tell me if it is not. There was a case which involved two men in Sydney and I believe they were convicted in relation to migration fraud, and that involved a Mr Moon and a Mr Ling. Is that right?

**Mr Metcalfe**—I recall that particular case. I will have to check to see whether there are still matters before the courts, but certainly the allegation was that there was citizenship fraud, that there was fraud associated with the acquisition of citizenship by some permanent residents sooner than they otherwise would have been entitled, by Mr Moon using his power to waive the residential qualifying period.

**Senator ELLISON**—Did that case result in the revocation of any citizenship being granted?

**Mr Metcalfe**—Can I just check that?

**Senator ELLISON**—You can take it on notice, if you want.

**Mr Metcalfe**—Or we could do this when we get to Citizenship under program 2.

**Senator ELLISON**—Okay; we will leave it until then.

**Mr Metcalfe**—We will be ready to talk about it later on.

**Senator ELLISON**—Have any prison cases resulted in a prisoner being released into the community because their 501 cancellation has not been considered in time by the minister?

**Mr Metcalfe**—What time period are we taking about?

**Senator ELLISON**—Since the new government, obviously.

**Mr Metcalfe**—None that we are aware of since the new government. We do have something that Mr Correll and I put in place a couple of years ago, and that is enhanced arrangements to ensure that potential cases giving rise to the consideration of visa cancellation were considered in a timely manner. The advice to us is that those arrangements are working properly.

**Senator ELLISON**—I will put the other questions I have to the minister as they are more policy than anything else. You mentioned the refugee determination tribunal—or maybe I did. Has work been done to establish that? I understand there was a commitment by—

**Mr Metcalfe**—I think it is another thing in that party platform, Senator.

**Senator ELLISON**—Yes, it is. Maybe that is a question for the minister as well.

**Senator Ludwig**—Keep reading our party platform!

**CHAIR**—I should show you where the library is, Senator Ellison. No, I jest.

**Senator ELLISON**—I don't need it—I have my own copy.

**Senator Ludwig**—As I have of yours, I suspect.

**CHAIR**—Alternative reading matter.

**Senator ELLISON**—On 24 December last year the *Sydney Morning Herald* reported the case of Ms Toia, who was deported back to New Zealand under section 501. Are you aware of that case?

**Mr Metcalfe**—I am aware of that case in general terms.

**Senator ELLISON**—The report said a spokesman for the minister said there ‘would be no comment on Ms Toia’s case or on the wider issue’. Is it true that that person had lived in Australia since she was 12 months of age?

**Ms O’Connell**—It is certainly my understanding that she has lived in Australia for an extensive period of time—yes, since a very young age.

**Senator ELLISON**—I suppose that leads me to the next questions to the minister, again. Do you provide the minister with complex case reports on a regular basis?

**Mr Metcalfe**—We provide the minister with many reports on many things. I do not want to be unhelpful but we provide advice on compliance cases, protection visa cases, on all sorts of matters.

**Senator ELLISON**—They are not one compendium report; they are separate reports?

**Mr Metcalfe**—There are separate reports sent from different parts of the department to the minister, his office or his senior officers.

**Senator ELLISON**—Are those reports subject to FOI?

**Mr Metcalfe**—Technically, any document within the possession of the department is subject to FOI. Whether an exemption will be claimed in relation to any request would have to be assessed on its merits.

**Senator ELLISON**—Are these reports done on a periodical basis or just ad hoc?

**Mr Metcalfe**—Most of the reports of the general class that you are referring to would happen on a regular basis. As I said, they are used to update senior officers in the minister’s office—to be honest, I am not sure whether the minister or predecessor ministers read them personally—about significant areas of departmental operations. There is a range of reports on a range of subject matters: detention, protection visas, compliance issues, significant investigations, progress of the migration program, litigation and FOI requests. There is a range of reports provided on a regular basis by parts of the department.

**Mr Correll**—Returning for a moment to the case you raised earlier, I point out that the decision to cancel the visa in that case was made on 28 September 2007 by the former minister.

**Senator ELLISON**—The date I had was later. The decision was made by the prior minister, was it?

**Mr Correll**—Correct.

**Senator ELLISON**—Was the National Character Cancellation Centre set up to provide consistency in relation to character cancellation considerations by centralising the process at a single location? That was set up early last year. Is that right?

**Mr Metcalfe**—It was more an initiative of 2006.

**Mr Correll**—The process commenced in 2006; the centre was set up, from recollection, and in full operation in the early months of 2007.

**Senator ELLISON**—Is that continuing?

**Mr Correll**—Yes. It has proved to be highly effective in ensuring high-quality processing and decision making.

**Senator ELLISON**—There was a task force to review previous character cancellation decisions in accordance with criteria agreed between the Ombudsman and the department. What has happened to that?

**Mr Metcalfe**—The review of those cases has been completed—all cases have been reviewed and relevant action taken in respect to each of the case review outcomes.

**Senator ELLISON**—They have all been resolved and that is the end of it?

**Ms O'Connell**—There were approximately 100 cases in the case load. When we say they have been resolved we mean they have been looked at in terms of administrative review and jurisdictional error, and action has been considered and taken in all but one case in terms of any reconsideration of decisions. To that extent the people involved in the review know the outcome in all but one case.

**Senator ELLISON**—The only remaining questions I have in 1.4 are for the minister. I will leave those in abeyance.

**Senator NETTLE**—Mr Metcalfe, you mentioned a system that you and Mr Correll put in place in relation to the timely manner for 501 cases.

**Mr Correll**—That is correct.

**Senator NETTLE**—Can you indicate what 'timely manner' means?

**Mr Correll**—It simply means ensuring that there has been identification of persons within the corrections system who are not Australian citizens and who have committed an offence that would bring them within the powers under the Migration Act for possible consideration of the cancellation of their visa, and to ensure that any consideration as to whether their visa should be cancelled occurs prior to their release from correctional custody, rather than subsequently.

**Senator NETTLE**—The minister earlier today raised the case of Mr Robert Jovicic. Can we get an update of his status? When we were talking before about people who had their deportation orders, the minister raised that as an example.

**Mr Correll**—Mr Jovicic remains on a special purpose visa which was granted to him to enable his lawful stay in Australia.

**Senator NETTLE**—There is no ongoing deportation order?

**Mr Correll**—No.

**Senator ALLISON**—Is he entitled to apply for citizenship?

**Mr Correll**—I do not believe so but I would like to check that. I will correct the record if that is not the case.

**Senator ALLISON**—If he is not entitled to apply for citizenship can you please indicate what would need to be done procedurally in order for him to be so entitled?

**CHAIR**—Senator Evans has returned. Most of the remaining questions, Minister, are for you.

**Senator ALLISON**—Minister, will the Rudd government reverse or amend the Migration Act as it relates to the deportation of noncitizens on character grounds? Do you have anything you can tell the committee about the government's intention in that respect?

**Senator Chris Evans**—I gave evidence earlier in response to questions from Senator Nettle. I am reviewing ministerial powers more generally and how we handle those powers. There are a couple of principles that I am trying to apply: that the minister deal less with the individual case loads and that there be more transparency in the system and, where appropriate, more rights to appeal decisions because they were made by someone who is applying a set criteria.

At the moment I am reviewing the directions issued to the department about that, and Mr Correll is handling some of the 501 case load. But I have not made a decision to seek any legislative or regulatory change. It is a question of the directions given to delegated officers at the moment. I have indicated that the work that was done on the joint committee report in this area, and its commentary about the Ombudsman's recommendations et cetera, was of value. I have been reading that report and reviewing that evidence to try to come to a decision in my own mind about how best we process that case load. So we are dealing with the policy issues there.

The complexity of each individual case is, without firm guidelines, a very difficult thing to resolve. Mr Correll and I have spoken about that a number of times—balancing their age when they arrived in Australia, their criminal records, the likelihood of reoffending, the nature of the crime, their relationships, whether they have children. I have found in particular that a lot of the people who are coming forward to me are people who have done a series of very serious crimes and that this is their fourth or fifth offence. Some of them have been in the prison system for 20 or 30 years and they end up on my desk, 30 years on, with a question about deportation. Quite frankly, if you were going to deport them you would have done it after the first crime, not after the fourth or fifth prison term. I am still trying to get to the bottom of why we are in this situation. Sometimes I get advice that I ought to warn them, when it seems to me that they have had a lot of chances and a warning would be a little pointless.

So there are a range of complex issues. One that we have discussed is the relationship with the prison authorities and whether or not decisions about those people with serious character concerns can be made and appeal rights and the time period for an appeal to be conducted can occur while they are still in custody. At the moment, people come out of custody and have to be taken into detention while these decisions and appeal rights occur, so they become an immigration problem. Some of them are long-term detainees of Villawood et cetera. It seems to me to be a very inefficient system.

It is a long-winded answer, but I am just trying to give you a sense of the complexity of it. I do not understand why this huge case load was not dealt with when they first offended. I am sure Mr Metcalfe or Mr Correll can give you an answer. I find it unconvincing, but they can give you an answer. Not that they are unconvincing, but how the system allowed us to get to that. As I said, I do not see why I am dealing with people who committed serious crimes many years ago and it has not been resolved in the system.

**Senator ALLISON**—Do I take it from that that the principle of returning people to their country of origin, if they have not taken out citizenship despite being permanent residents, is one that you intend to continue with?

**Senator Chris Evans**—Certainly I am not ruling out returning people who have committed serious crimes if they are not citizens of the country. The Ombudsman made some recommendations about how you might set a general rule. I think we had a 10-year rule previously. That was abolished by the previous government. One option is to go back to that. One is to pick up the Ombudsman's recommendations about age of arrival and period in Australia. What I have been doing, and discussing with Mr Correll, who has been handling some of the case load, is trying to get a sense of the experience.

I made the point earlier that I have been in the job 11 weeks. One of the things you learn to do is learn from your experience, and some of the decisions like that which I might have taken in the first couple of weeks are not necessarily the same views I hold now. What I have been doing is looking at the decisions in relation to the various criteria that have been suggested by other people. I think it is fair to say, as with all rules, there are some decisions that would fall inside that you would worry about and some that fall outside that you would worry about. I have not come to a firm conclusion on that, but I am aware of the joint parliamentary committee report, and I think that was useful. I am also thinking about seeing if we cannot give that committee some references that might assist us to move through some of these issues. I am meeting with the chairman tomorrow.

**Senator ALLISON**—As the rate of deportations in Australia is more than twice the size, per capita, of those of the UK and other similar countries, is it your understanding that this is due to those recent changes, requiring a catch-all? Even those who arrived as babies suddenly find themselves being sent back to Vietnam and similar places.

**Senator Chris Evans**—I am not sure of the international comparison, but there is no doubt the previous government—I think under Minister Ruddock—made a series of changes. Perhaps Mr Metcalfe is better suited to this in terms of the history.

**Mr Metcalfe**—Senator, you are possibly aware that there had been for many years a power that currently exists in the act as section 200 which meant that a person who had lived in Australia as a permanent resident for 10 years or less—other than time spent in prison—was able to be considered by the minister, or a delegate, for criminal deportation. There is a parallel power in section 201, which goes to security concerns.

From memory, in about 1999 the previous government and the parliament brought in legislation called the Migration Legislation Amendment (Strengthening of Provisions Relating to Character and Conduct) Act which inserted section 501. Section 200 and section 501 sit together, even though they cover the same potential area—the major difference being that section 501 has no time limitation upon the amount of time that a person could have spent in Australia outside of prison. Since that time, as you are clearly aware, ministers have considered persons who have lived in Australia for more than 10 years outside of prison, including some people who came as young children. Essentially, the ministers have usually exercised that power personally, but it has been delegated from time to time as well. The very



issue you are raising is how the new government would administer those powers, and that is an issue that the minister has indicated there are various thoughts about.

The Ombudsman has provided some very useful guidance, given his examination of the case load. There have been some celebrated cases in this area. Ministers often have to balance a range of competing concerns: formative years in Australia, length of residence, family links, together with the seriousness of the crime, recidivism, impact on victims and whatever. This is a particularly difficult, complex area for anyone involved in its administration.

**Senator ALLISON**—Minister, will you review the decisions made over the period of time since 1999, and consider repatriation of some of those already sent back to other countries?

**Senator Chris Evans**—No.

**Senator ALLISON**—I am thinking of one case in particular, of Steve Ongel, who came to Australia aged 18 months in 1970 and was deported to Turkey in 2003, leaving behind a wife and two daughters, aged two and four. Would that be the sort of circumstance in which you might reconsider?

**Senator Chris Evans**—The answer was ‘no’ in the sense that I thought that you were asking me whether I was going to review those decisions. Clearly, I am not going to go back through the files and review what previous ministers deported in accordance with the law and substitute my decision. I suspect that I do not have that power, but I am happy to take advice on that. But it is certainly not my intention. If someone wanted to put a particular case to me, Senator Allison, I would happily consider it and seek advice on. But I do not intend revisiting the decisions of previous ministers in the previous government and reviewing all those decisions—certainly not. It is pretty clear that I do not have that power, anyway.

**Mr Metcalfe**—Essentially, to quote the Latin, you are *functus officio*.

**Senator Chris Evans**—Is that catching?

**Mr Metcalfe**—There is no matter before the minister that is there to consider in a legal sense. The only way that the matter could again be considered is if there was an application for migration, I suspect, and that would have to be considered in the context of any ban on readmission that the legislation provides for someone who had been removed in those circumstances.

**Senator ALLISON**—One could imagine a circumstance where there would be such an application if the law changed and if that person would not have been deported under the new laws.

**Senator Chris Evans**—I would not have thought so, Senator Allison. That is a retrospective application. If we change the laws to provide new guidance rules, then certainly decision making from then on would be guided by them. But it would not have the application of opening up all of the decisions previously made.

**Mr Metcalfe**—It might be the case if there was a new application.

**Senator Chris Evans**—The application would be a very different application. If someone had been offshore for many years, it is not a question of deportation. It would be a question of them seeking migration to this country. The answer, Senator Allison, is that they are not going

to be picked up by a review by me. I have no powers to deal with them, anyway. The point is that, if there was a particular case that someone wanted to bring to my attention seeking entry to Australia, I would consider that on its merits. But I have no intention of going back and reviewing the decisions of previous ministers.

**Senator ALLISON**—I have one final question. Since our jails are full of people with mental illness—up to 80 per cent of those in prison have had a mental illness at some stage in the prior 12 months before being incarcerated—will that be a consideration in your review of the current arrangements?

**Senator Chris Evans**—Consideration in my review of—

**Senator ALLISON**—As I understand it, you are looking to review the situation to see whether there will be changes made to the law. I am asking you whether as part of that consideration you will look at the fact that a lot of people with mental illness end up in prison as a factor in considering whether it is appropriate to deport them or not.

**Senator Chris Evans**—Certainly mental health issues are an important factor in those decisions, Senator Allison. Some research was done recently on the impact of long-term detention on mental health. As you know, there is a lot of international evidence of that effect. Obviously, people's mental health is an important part of that consideration. I am pleased to see that there has been a much better response to those issues by the department in recent times. Those of you who have followed it closely would concede that. But clearly that is an issue that you would consider as part of the balancing of all the considerations.

**Senator ALLISON**—This may have been asked before, but are there statistics on the number of those who have been released from prison and put straight into detention and the length of their stays?

**Mr Correll**—We would have that information available, but we do not have it immediately to hand. We will take that on notice.

**Senator ALLISON**—What was the immigration department's role in the deportation of Mr Hew Griffiths, who was arrested for breaking US law to do with copyright and piracy? Did Immigration play a role at all in that deportation?

**Mr Metcalfe**—No-one at the table has any knowledge of that. We can take that on notice and let you know if we have any involvement in that matter.

**Senator ELLISON**—I can help the committee. That was an extradition. It was pending during the time that I was minister. It was done as a result of an extradition request from the United States.

**Senator ALLISON**—I will speak to you later.

**Mr Metcalfe**—We will check, but I suspect that Senator Ellison has provided the answer.

**Senator ALLISON**—I realised that he was extradited but I wondered whether the immigration department had a role in all of that.

**Mr Metcalfe**—The answer is almost certainly not, but we will let you know if we did.

**Senator ALLISON**—Thanks. That is all I have.

**Senator NETTLE**—I have a couple more for the minister, if that is all right. I will go back over some areas that we talked about before. Senator Ellison was asking some questions about what I would describe in a colloquial way as the US refugee swap to do with Guantanamo Bay, the Cubans and the Haitians. We were going through the letters and Mr Metcalfe was saying that he did not think that was continuing because that caseload did not exist. But I wanted to ask you, as the minister, what your view about that continuing arrangement is?

**Senator Chris Evans**—I will take a couple of deep breaths so that I can be diplomatic, Senator Nettle. I am advised that it is defunct. If it was not, I would have made sure that it was. It will not be pursued.

**Senator NETTLE**—Cool. Thanks. I want to ask you about section 189 of the Migration Act, which the Ombudsman has—

**Senator Chris Evans**—Is this a quiz? I will need to get a copy of the act.

**Mr Metcalfe**—I know the answer, Senator.

**Senator NETTLE**—The Ombudsman looked at the 247 causes and identified section 189 of the act as central to many of them and the decisions about them. Is there any planned review of section 189 of the act?

**Mr Metcalfe**—If it will assist, I might briefly explain the workings of that section. Section 189 of the act has been in place now for a good while—the best part of 20 years. It essentially requires an officer of the department to detain a person who he or she knows or reasonably suspects is a noncitizen who does not hold a visa. The Ombudsman's commentary in relation to the section in the context of the 247 cases was about whether the department had properly trained its officers—and supported them through effective information systems—particularly about the issue of them having a reasonable suspicion and whether or not that was in fact a correct belief in some of the circumstances. That area of administration has been the subject of extensive reform since the Palmer and Comrie reports and as a result of commentary by the Ombudsman in his subsequent reports on the 247 cases and has led to many initiatives around quality assurance, training, support for police officers who are exercising powers as officers of the department, information technology support and record keeping. It has been an area of very substantial reform. The policy question being asked is whether there are any particular plans to revise or reform that aspect of the legislation. Minister, that is something that you may or may not wish to answer.

**Senator Chris Evans**—I suppose the simple answer at the moment is no, Senator Nettle. That does not indicate a lack of interest in the issue. We have a few comparatively minor issues that I am dealing with that will require some legislative changes. But this is one of those broader issues that we will have to come to terms with. I have indicated to you that I am interested in engaging the parliament in that because, quite frankly, there would be no point in me putting up legislation that is not going to get passed through the Senate. I am keen to try and get a bit more bipartisanship in immigration policy more generally, because the debate in recent years has contributed to some of the problems that we saw inside the department. The dehumanisation of people in the system was in part driven by the political debate and the use of fear.

I am hopeful of us developing a more constructive political debate in Australia. I am pleased to see the appointment of Senator Ellison to the portfolio as opposition spokesman. I have always found him to be constructive, balanced and a fine legal mind. I look forward to seeing if we cannot build a bit of a broader consensus—not about everything, obviously, but in terms of the approach to migration. I have not turned my mind to major legislative change. To be brutally frank, I have been dealing one-by-one with the legacy issues, and there are lot of them: Haneef, the Pacific solution, Rau, the 457s—they have been the focus of the first couple of months, and they will be the focus for another couple of months as we work our way through them. We will then engage with the parliament about longer term changes to the Migration Act.

**Senator NETTLE**—You talked about the Haneef case. Have you reviewed the Haneef file in relation to the decision to cancel his visa?

**Senator Chris Evans**—No, that was actioned by a previous government, subject to advice by the department to a previous minister. I have not been briefed, nor sought to be briefed, on what advice was provided to the previous minister. It is not appropriate under the conventions and so my handling of matters in relation to Mr Haneef was related purely to those that arose in my time as minister. I have not sought any briefing on the matter or on how the minister handled it—it would not be appropriate.

**Senator NETTLE**—I think this is still relevant: would you cancel Dr Haneef's visa on the same grounds, were he to return?

**Senator Chris Evans**—I am not going to respond to hypotheticals about a particular individual; that clearly would not be right. You would probably be aware that on 21 December the full Federal Court decided to restore Dr Haneef's visa. Anticipating that might be the case—although my legal advice was otherwise—I sought the latest information from the Australian Federal Police. Having reviewed that in the light of the full court's decision, I determined that I would take no action to cancel Dr Haneef's visa. That is, I applied the test set down by the new full Federal Court's decision to Dr Haneef, and determined that I should not take action to cancel his visa. I do not want to say any more about Dr Haneef in the sense of what may happen or may not happen; the point is that he has a current 457 long-stay visa which expires in August 2010. So a decision about a return would obviously be a matter of whether he had a sponsoring employer, and that is obviously a decision for him.

**Senator NETTLE**—I want to ask about the excision of islands from the migration zone and whether the new government intended to reverse the excision of islands that was a part of the Pacific solution?

**Senator Chris Evans**—At the election we made it clear that those islands would remain excised. Mr Metcalfe was always keen to explain that they are not excised from the migration zone. But if you are asking, 'Are we going to reverse the excising of Christmas Island?' et cetera, the answer is no. That was a very clear election commitment: we would not be reversing that.

**Mr Metcalfe**—Something I am always trying to emphasise to anyone who will listen is that the common mistake is that people talk about those islands being excised from the migration zone. The migration zone is a legal concept set up by the Migration Act. Certain

things have to happen or not happen within that zone. The effect of excision is not to remove the migration zone. It continues to apply absolutely the same as ever for a person who holds a visa. So if a person arrives at Christmas Island and they are not an Australian and they have a visa, then they have entered the migration zone of Australia. The effect of excision is that if a person arrives without a visa, as an unauthorised arrival, then they are prohibited from making certain applications under the act, particularly for a protection visa, unless the minister exercises a non-compellable, non-delegable power to allow that application to occur. So the effect of excision is not to shrink the migration zone, as some people have said, but rather to mean that only certain things can happen or not happen if a person arrives without a visa.

**Senator NETTLE**—I want to ask the minister about the current Labor Party platform. It says that Labor will continue the excision of Christmas Island, Cocos (Keeling) Islands and Ashmore Reef from Australia's migration zone. I ask, then, about the other islands. I think there are about 4,000 or so islands that are excised. Is there a plan to reverse that excision in relation to the other islands beyond those three mentioned in the Labor platform?

**Senator Chris Evans**—You are right in the sense that we made it clear, as part of the election platform, that we would continue the excision of Christmas Island, the Cocos islands, Ashmore and Cartier Islands. No decision has been taken by government at this stage about the remaining islands.

**Senator NETTLE**—What was the fourth island?

**Senator Chris Evans**—Ashmore and Cartier.

**Senator ELLISON**—Can we go back to questions I raised earlier. There was one in 1.2 that dealt with the Offshore Humanitarian Program. Is the government considering or proposing to decouple the onshore and offshore components of Australia's refugee and special humanitarian program?

**Senator Chris Evans**—There is no active consideration at issue at the moment.

**Senator ELLISON**—Thanks. The next one was dealing with the make-up of the refugee component. We were talking about the current component being 30 per cent African, 35 per cent Asian, 35 per cent Middle East and South-West Asia. The department's answer was that this is what the department is working with at the moment and it would, unless indicated otherwise by the government, remain so until June because it has been done on a financial year basis. But my question was: is there change contemplated by the government? Is the government contemplating changing this before June?

**Senator Chris Evans**—No.

**Senator ELLISON**—Thank you. Is the government considering any reviews or examining any options for cutbacks in our border management system?

**Senator Chris Evans**—Not that I am aware of. I would have to take it on notice, but not that I am aware. You mean within the Immigration portfolio?

**Senator ELLISON**—Yes, naturally.

**Mr Metcalfe**—This issue came up before and I said no. It is prudent administration that all areas are subject to ongoing review and improvement, but there are certainly no active plans to cut back our border management. We continue to seek to improve them wherever we can.

**Senator ELLISON**—In relation to HIV and my question on New Guinea, I quoted the Prime Minister as saying that it was an issue, and the department said the money had been expended on that and it would continue to be implemented. That is right?

**Mr Metcalfe**—I think you pointed to a speech made by the Prime Minister when he was opposition leader about the incidence of HIV in Papua New Guinea and you asked whether we had any plans to increase health checking as a result. My advice was that there were no active plans to vary the health requirement but I did note that in the additional estimates there are funds that were actually an initiative of the previous government and reported, I suspect, in PEFO and brought forward through the additional estimates process for some additional millions of dollars for health-checking arrangements. So that is something that will be an overall enhancement of our health-checking arrangements for people coming to Australia.

**Senator ELLISON**—The other question was on ministerial interventions, but I understand, Minister, you have said that you are considering this at the moment. I asked the department how many were in your office; that was taken on notice. But I understand that you are reviewing the role of the minister in relation to this and so, until that is resolved, you will not be dealing with any interventions. Is that right?

**Senator Chris Evans**—No, that is not correct. I can give you a more fulsome answer, probably on notice, if you want. Effectively, I am working through the issues with the department. Mr Correll is dealing with a set of delegated files; he reports to me; we talk about it; we see whether the Ombudsman test works or does not work with some of the other suggestions. If you like, I am assessing rather than rushing to judgement about how we might handle these things. As you are aware, as a minister you get exposed to a range of decision making that you have had no view on from opposition. What we are trying to do is work through the issues—what works for the department, what provides procedural fairness and what ensures people get appropriate appeal rights.

As I said to you, my fundamental position is that I do not think the minister should be dealing with as many of the cases as they are. That is not a workload critique. The social security minister does not decide the merit of social security applications. The Attorney-General does not decide who goes to jail, but the immigration minister does. It just seems to me it is a very different set of responsibilities. The parliament has debated this in the past and will debate it again. If you see what has happened over time, Mr Ruddock had a particularly hands-on approach when he became minister and was unhappy with some of the procedures that had been in place under previous ministers, so we have seen a real expansion of the number of cases coming to the minister and being decided by the minister. I am not sure as a matter of public policy that I think that is appropriate. So it is a part of working through those issues.

**Senator ELLISON**—As a matter of precedent, the minister for justice decides parole for anyone serving more than 10 years. It is highly unusual in this country for a minister to have that sole decision-making responsibility, which is one normally vested in parole boards.

**Senator Chris Evans**—Compared with the immigration powers, I can assure that is small beer indeed.

**Senator ELLISON**—The only problem is they deal with the most hardened criminals the Commonwealth has put away. So there is a security aspect to that one.

**Senator Chris Evans**—And you know what happens after that, Senator Ellison? After you have paroled them they come and we put them into Villawood and then I have to deal with them.

**Senator ELLISON**—I do not think I gave anyone parole.

**Senator Chris Evans**—I will not bring up the question of what happens to people extradited to Australia who then serve their prison terms and end up in the immigration system.

**Senator ELLISON**—I think there is some work that could be done on the relationship between all of that. The other question which I did not ask because it was dealing with the ALP national platform; that well-known tome—

**Senator Chris Evans**—I know you were a bit of a left-winger when you were at university, Senator Ellison, but—

**Senator ELLISON**—Hang on, I was a member of the university Liberal Club.

**Senator Chris Evans**—Yes, but you were not in good standing, as I recall. You were seen as being far too compassionate.

**Senator ELLISON**—I fought for voluntary student unionism.

**CHAIR**—I think you have read the platform more closely than we have.

**Senator ELLISON**—I was one of those who first moved the motion for voluntary student union.

**Senator Chris Evans**—As told you, I voted for you once in a guild ballot because you were the moderate face on campus.

**Senator ELLISON**—I think it was a social program that I espoused not a socialist way. The ALP policy platform says:

155. Labor recognises that the arbitrary 45-day-rule results in legitimate asylum seekers on bridging visas being unnecessarily denied the right to work while their claim is being processed. It also prevents immigration officers from denying work rights to frivolous claims lodged within the 45-day-period. Labor will work to develop guidelines based on merit so that frivolous or vexatious visa applications will be denied those rights, instead of applying an arbitrary 45-day-time limit.

Has work commenced in relation to abolishing that 45-day rule for bridging visas?

**Senator Chris Evans**—I think you would have been here earlier when Senator Nettle asked me a similar question. I indicated to her that I had sought advice from the department. They have been doing a lot of work on this in recent times, as I understand it. They have provided me with a brief and that has educated me to the fact of how complex this is and how complex any solutions are. So I guess the answer is that it is under active consideration but no decision has been taken.

**Senator ELLISON**—You might have mentioned this to Senator Nettle, but I was out of the room for part of that evidence. The platform stated:

160. Labor will review the current asylum seekers' appeal mechanism to ensure that its decision making and operation is both cost efficient, fair and consistent.

Is that review underway?

**Senator Chris Evans**—No, I have not initiated any action on that yet. I think I told you that I am working my way through the legacy issues at the moment, and a whole range of other issues. That is not one that I have yet initiated work on. As I say, my concentration has been on many of the legacy issues like Haneef, the Pacific solution, Rau, section 457 visas and a whole range of other issues. We will work our way through the other issues. I think even you would concede that in 11 weeks we have done a fair bit in the portfolio, but there is a lot more work to do. I would also like to make the point again that the platform gives general guidance. The election commitments are a different set of commitments and they are being implemented as a priority by this government in all portfolio areas.

**Senator ELLISON**—The Refugee Review Tribunal is another area that was covered in the national platform. When do you intend to have a look at that?

**Senator Chris Evans**—I think I answered this question before also. As I say, I have not yet initiated work on that. I think the previous government made a whole series of appointments just before they left office in that regard, but I have not yet turned my mind to how we implement that part of the Labor platform.

**Senator ELLISON**—There was one question in relation to the Indonesian visit that we held over. I am just trying to remember what that was. I must say that I thought it was a good move that you went there. I just cannot recall which one that was.

**Senator Chris Evans**—I have a note here that says 'Indonesian visit' but that is as far as it goes.

**Senator ELLISON**—Rather than hold up the committee, perhaps we can put that on notice.

**Senator Chris Evans**—How can we take on notice a question which you cannot articulate?

**Senator ELLISON**—It will be in the *Hansard* from earlier.

**Senator Chris Evans**—Perhaps it might be better if you have a think about it over dinner.

**Senator ELLISON**—If we can find it out over the break then I will bring it back afterwards. That does me up until output 1.5.

**CHAIR**—Senator Nettle, are you ready to move on to 1.5?

**Senator NETTLE**—Yes. The department were going to get back to me about some IOM funding in Indonesia, so I will leave my questions around the IOM funding in Indonesia until you get back to me, Mr Metcalfe.

**Mr Metcalfe**—I think we said we hoped to do that after dinner.

**Senator NETTLE**—Yes. Other than that, I am happy to go on to 1.5.



**CHAIR**—We can move to 1.5 for a couple of minutes or break for dinner now. I am in the hands of the committee and the department.

**Mr Metcalfe**—We stand ready to assist, Senator.

**Senator ELLISON**—Perhaps we could break now and resume at 7.30. I do not know how many questions other committee members have, but we have still got 1.5, 1.6 and the whole of outcome 2 to do.

**CHAIR**—In my opening statement yesterday and today I indicated that dinner was 6.30 till 8. Perhaps we will break now and come back a little earlier.

**Proceedings suspended from 6.26 pm to 7.50 pm**

**CHAIR**—We are dealing with output 1.5, Detention.

**Senator NETTLE**—I want to ask about a range of different detention centres and what their status is. I will start with Baxter. What is its current status? Is it mothballed?

**Mr Metcalfe**—Baxter is now closed. In the additional estimates statement you will find savings that have accrued in the portfolio as a result of the closure of Baxter detention centre. It closed about six months ago.

**Senator NETTLE**—It was a decision of the previous government.

**Senator Chris Evans**—It was certainly closed by the time I became minister.

**Mr Metcalfe**—It was August.

**Senator NETTLE**—Does the new government have any plans to change the status of any of the existing detention centres, including those that are mothballed?

**Senator Chris Evans**—No. As you would be aware, the Christmas Island capacity and the new facility there will be available for use by the department in the next month or two. That has a capacity for 400 with a surge capacity of 800. In addition, there are other DIAC assets on Christmas Island that allow for the accommodation of staff and perhaps others. While the numbers in detention have fallen dramatically since the 2005 changes, I am pleased to say, we nevertheless have to plan for the potential of a large number of boat arrivals at one time. Hopefully, that will not occur but, although we have the Christmas Island capacity, I have asked the department to provide me with some advice about what additional capacity we might have if we needed it with a large number of people arriving in a short space of time.

The detention centres that are closed are closed. One of the officers might like to say something about Port Hedland because that is slightly different. Perhaps these officers can take you through each of the centres and that will give you a better picture than me giving you a general answer.

**Mr Lamond**—Villawood, as you know, is operating. That has a capacity of 560 in normal operation. That is broken up into places for 70 individuals in stage 1; 490 in stages 2 and 3; and we have the capacity to house 34 people in residential housing accommodation which is adjacent to the IDC. There is no proposed change in the status of that, although we have had discussions with the minister about how we might improve the amenity at the IDC in both the short term and the longer medium term.

The Melbourne IDC at Maribyrnong is fully operational. Over the last couple of years that centre has been subject to refurbishment. It can accommodate 70 people, with an additional 30 taking it up to 100 in surge capacity. We are nearing the stage of completing immigration transit accommodation nearby. That will be able to house 21 people on the basis of short-term accommodation. These are people who are picked up at the airport, for example, for quick turnarounds. We do not necessarily think they are either a security or a flight risk. The Melbourne immigration transit accommodation has been constructed as basically low security, reasonably high quality. The fit-out is just about to finish. We will put people there for a day or so—very short term—until they can get on the plane back to the country they last came from or country of origin.

We have a similar facility operating in Brisbane, the Brisbane immigration transit accommodation. That can house 20 people. That has been operating since November. From memory, we have had something like 104 people there. I will check that detail and if necessary correct it. We have had 104 individuals through that facility again without any problems. We have the immigration detention facility in Darwin. That has a capacity of 420 in two compounds. The construction work at the second compound is just about nearing completion. So it will be fully operational. That centre focuses on the accommodation and processing of illegal foreign fishers that are apprehended in the MOU area in the northern fishery zone. For example, this year we have accommodated 740 over the period 1 July to 8 February. They are the most recent stats. That number is in fact down on recent years when much higher numbers of foreign fishers were apprehended. But we do have the capacity there to manage them appropriately.

In Adelaide we have a temporary accommodation facility. It is not an IDC. It is two units which are guarded by GSL. We can accommodate 12 people there. We have plans to build an immigration transit accommodation facility there. We are in the preliminary stages of conversation with the South Australian government to acquire land in Adelaide. Then we will move into a design and build stage.

You have heard the minister mention the facility on Christmas Island. That will shortly be completed to absolutely fit-for-purpose standard—a brand-new IDC that can accommodate 400 people in practical operation and up to 800 in surge. That is an extraordinarily high-quality centre. It has been engineered and built to last for about 30 years. When you think of the nature of the environment in which it is, that is not a bad objective. Finance has managed the construction and building of that. As I said, it is due to reach fit-for-purpose soon; it was practically complete in November last year. Fault finding has been carried out and, reflecting the minister's comment, we will take possession of it some time in the next month. We will need a short period of time to check that the communications and the internal systems are all operating and then it will be available for work.

The current IDC at Phosphate Hill has a capacity of 104 for practical operation and about 208 for surge in permanent accommodation. If it is the dry season, we can accommodate another 400 in tents in another compound nearby. It is our intention to put that into mothballs and keep it as a possible contingency facility for the short term while we make sure that the facility proper works. The longer term intention and understanding is that that would be removed and the land returned to the community.

Opposite the facility at Phosphate Hill there is a construction camp which was built to accommodate workers who were building the new centre. That is ours. That will be put into mothballs because that may, as the need arise, serve as either accommodation for staff, or families should we get large numbers of families arriving on the island as authorised boat arrivals. This government has indicated quite clearly the policy of no children in an IDC. We would accommodate children and families outside the centre. We would use some other accommodation that we have there and, as necessary, move our staff into the temporary and short-term accommodation.

We have a mothballed facility on the Cocos (Keeling) Islands, which can accommodate 48. That can be turned on as needed. The Port Hedland facility is now in contingency mode and, indeed, has been leased to a company based in Western Australia called Auzcorp. They are running it as an accommodation unit to handle the accommodation pressures in the Western Australian mining industry. Auzcorp took over that facility in December. They have been undertaking a range of construction activities, to ensure that they can secure council approval to operate as a motel. It needs variations to the fences, which they are paying for. A little further down the track they propose to bring in ensuite demountables to add to the amenity of the place. The Commonwealth will start receiving rental from Auzcorp on 1 March. The facility has been leased for a period of two years, and an element of the lease is that, on two months notice, if the necessity arises, we can recover that and use it for emergency accommodation, should we need to handle larger numbers of people. We had some residential housing in Port Augusta but, with the closure of Baxter, we have also closed that facility. As both the secretary and the minister have remarked, Baxter is totally closed and has been handed back to the Department of Defence. That is a rundown on the facilities we have available and the state of play.

**Senator NETTLE**—You did not mention Perth.

**Mr Lamond**—I am sorry. I have jumped over it. We have the Perth IDC, at Perth airport. That has accommodation for 42, with a short-term peak of an additional 18, taking it to 60. There is no change in its status, but over the next 18 months to two years we will be undertaking—as I think may have been mentioned in previous estimates—some upgrades to the accommodation.

**Senator Chris Evans**—May I remind you, Mr Lamond, that forgetting Perth is a career-ending move!

**Mr Lamond**—I have so much to look forward to! Go the Eagles—or Fremantle, depending what the team is! At Perth, we also have some residential housing—basically three three-bedroom units—about a 10-minute drive from the Perth IDC, which can accommodate 12 individuals in regular use, with up to 16 in surge capacity. That currently has six people in it.

**CHAIR**—Mr Lamond, how many people are currently on Christmas Island?

**Mr Lamond**—We have two people in detention on Christmas Island, in the IDC.

**CHAIR**—In the new—

**Mr Lamond**—No, in the old IDC. The new IDC is not yet operational. We need to make sure when the systems are in, for example, all the electronic doors will open as necessary. So it just the turnkey.

**CHAIR**—When are you planning for that to be operational?

**Mr Lamond**—We will receive it from the department of finance in the next months, and it will be available for use from April.

**CHAIR**—All right. What about the temporary detention centre that has been used? The plans are to return that land to the community. What will you do with those demountables—ship them off island again to somewhere?

**Senator Chris Evans**—Senator Crossin, can I just intervene and say that the department has got some plans but I have also indicated that I want to review facilities on Christmas Island. First of all, I think there are actually six people on Christmas Island: the two in the detention centre and the family that arrived. Are they still there?

**Mr Lamond**—Yes, the Ridwans—a husband and wife and two children.

**Senator Chris Evans**—They are out in the accommodation—one of the duplexes, probably the best standard housing we have got. I am keen to review that. As you would understand, I do not want to go into a lot of detail but, if you have a 400-bed major institution, you have to decide at what stage you open it. Do you open it for two people?

**CHAIR**—That was my next question.

**Senator Chris Evans**—Have you got the answer for me?

**CHAIR**—I do, actually, but perhaps I should not put it on record here!

**Senator Chris Evans**—Seriously, the point is that we will in a month or so have that facility handed over to us. Quite logically, you would not start operating it with all of the costs associated with that for two people, so there are a range of decisions like that to be made. I have asked for a cost-benefit analysis on how many you would want to accommodate before you opened it, and what the costs are of care and maintenance versus operating it for a small number of people—all those sorts of decisions. We have some better community opportunities outside of that facility, so it is a question of looking at all the options that would allow us to accommodate people in the best way possible. But, obviously, those plans will be a sequence of arrangements. If you were dealing with 100, 300, 500 or 600 people, the arrangements would be different. I have asked for advice from the department in looking at our options in that regard for when the facility comes on line.

**CHAIR**—Just to clarify, in respect of the temporary detention centre up on Phosphate Hill, will you remove those demountables from the island?

**Mr Lamond**—We have not had a conversation with the minister about what might happen, but the assets themselves were second hand when the department acquired them. They have been in operation for a lengthy period of time. For example, when you walk on them, the floors are starting to deteriorate, as is the fabric of the walls. The question might be whether we actually rescue what we can and then just dispose of the rest. It would not be an economic

proposition to move them from Christmas Island in the condition they are in. We estimate that we probably have about a one- to two-year useable lifetime left in them.

**Senator Chris Evans**—The key point, Senator Crossin, is that I am reviewing all of that: the stock, the use of it, and the possibilities of how we might use the various capabilities the department has on Christmas Island, including staff accommodation, and we are happy to talk to the community about those things. I visited the island not long after becoming minister and have looked at all the facilities. Mr Lamond is right: a lot of the stock, as you would understand, is ageing. But, equally, some of it is more suitable for accommodating families et cetera than the new facilities. So it is a question of seeing how we can mix and match and meet whatever demands might be put on the place. We are in the process of reviewing those options.

**CHAIR**—I understand that the construction camp on Phosphate Hill is due to just stay as it is for the time being.

**Mr Lamond**—Yes, that will be put into care and maintenance until, as the minister has said, we make a number of decisions about how best to operationalise Christmas Island and how whatever we do on Christmas Island actually blends in with and supports, rather than taxes, the community more generally.

**Senator Chris Evans**—Again, that could possibly be used for families.

**CHAIR**—I am just getting to that. What is happening to the bedsit units on what is locally known as ‘Thredbo’?

**Mr Lamond**—I have not heard it called that, Senator.

**CHAIR**—You have seen it, though?

**Mr Lamond**—Yes, we have.

**CHAIR**—Are families accommodated there, or is that for staff?

**Mr Lamond**—Families are not in the bedsit units, but we have 10 duplexes. There are five buildings that are duplex accommodation, so there are essentially two houses, each with three bedrooms. That is where the families have been accommodated: the 16 individuals who turned up at the offshore oil facility and the four individuals who, more recently, were located on Ashmore Reef. As a footnote, they were actually on the island earlier, were returned to their country of origin and have now come back.

**CHAIR**—What are you using the single units on the hill for?

**Mr Lamond**—They are for accommodation for staff. At the time when the centre is operational—

**CHAIR**—Yes, I know. I know the history, well and truly.

**Senator Chris Evans**—One of the considerations, as I understand it, is that to operate the 400-bed new facility we would need in excess of 300 staff. So the more people who are detained, the more people you have to staff. Some of the facility which you might use in other circumstances to accommodate persons you then would need for staff, so it is a complex matrix, depending on the numbers there. The facility would require a lot of staff if it were operated close to full capacity.

**CHAIR**—If we ever see 400 people again. Where is the temporary facility you are talking about on Cocos Island? Is that inside the quarantine station?

**Mr Lamond**—Yes, but it is not in the part where the elephants were housed.

**CHAIR**—I was going to say, the last time I looked there were four elephants there.

**Mr Lamond**—No. There is accommodation for, I think, 48 people.

**CHAIR**—When was the last time it was used?

**Mr Lamond**—It has some brick and tile buildings that are kept on a care and maintenance basis, and it has not had people in it in immigration detention. Currently there are a number of individuals who are just residing there on the basis that their ship beached on Cocos. It was a safety of life at sea issue, so a number of sailors were taken off while their boat is repaired—it is a larger boat. They are in the centre, but not as people in immigration detention.

**Senator TROOD**—I just want to clarify: you were saying that Phosphate Hill facilities could last, perhaps, for one to two years at most. But from what the minister has said, something is going to happen well before that period of time. That is my understanding of the position.

**Mr Metcalfe**—I think Mr Lamond has said that some of the Phosphate Hill facilities are decaying. They were second-hand when they were obtained and, notwithstanding regular maintenance, are becoming increasingly difficult to maintain. What I think the minister has said is that he has asked the department to give him advice on the full range of facilities that we have on the island—the new centre that will become available to us soon from the Department of finance, the existing centre on Phosphate Hill, the construction camp which is in that area, the duplex accommodation we own and the units at Thredbo—to enable the right mix and options that the government might need into the future. We particularly need to bear in mind that since the policy changes in 2005, the accommodation of women and children has occurred not in detention facilities but in residential housing on the island. All of those issues are under consideration and we will provide advice to the minister in the near future.

**Senator Chris Evans**—Mr Metcalfe put it very diplomatically, but the bottom line is the facility was designed in 2001 under the previous government's then policy. If we were to have a large number of families and children arrive, and if we were not to maintain the other facilities, we would have to house those women and children in that facility. I do not want to describe it as high security, but it is a very secure facility. Given the previous government changed its policy in 2005, the building does not reflect the 2005 policy in terms of families and children. It is a serious issue, and one of the reasons I am keen to look at other options is to give force to the 2005 policy. I may want to make changes to that as well, but if we had large numbers of families, we could not meet those policy objectives if we did not use those other facilities—it is a real problem for us. While there will be a shiny new facility, we have that issue of large numbers of families and kids arriving.

**Senator NETTLE**—I will stick with Christmas Island for a bit. Can you give us the total cost to date of the new centre?

**Mr Metcalfe**—If we provide a figure, I will just ask that we provide the caveat that the actual construction has been under the responsibility of the Department of Finance and

Deregulation, so the most accurate costing will probably come from that department. If we have a figure we can provide, we will just ensure that we check with them that it is the most accurate figure.

**Senator Chris Evans**—There is not much change from \$400 million.

**Mr Lamond**—The estimate that I have in my briefing is a cost of \$396 million.

**Senator NETTLE**—Thanks. I want to understand how processing on Christmas Island will continue with the new facility. The government is still—and I know you do not like this terminology—excising Christmas Island from migration zone status. That is still the way in which it will operate. Who will do the processing on Christmas Island?

**Mr Metcalfe**—The processing in what regard?

**Senator NETTLE**—Of asylum seeker claims?

**Mr Metcalfe**—Of a person who arrived without authorisation and came to Christmas Island?

**Senator NETTLE**—Yes.

**Mr Metcalfe**—The current intention is that that person would be interviewed, as they currently are, by the department to ascertain whether there were any issues that might possibly raise protection claims. As we have described before, a very low threshold is applied as to whether there is any possible claim that needs to be considered. The further processing, under current arrangements, would then be a matter for the department to consider whether or not there was in fact a refugee claim.

**Senator NETTLE**—How would you work out which people were to stay on Christmas Island and which people were to come to the mainland or go from the mainland to Christmas Island? How will that work?

**Mr Metcalfe**—It is the government's intention that any processing would occur on Christmas Island, so the issue of whether someone comes to the mainland or not would only arise depending upon the result of that processing if in fact there were ongoing protection obligations required for that person or in other more limited circumstances, such as if there were particular medical or other issues that meant that a person could not be properly cared for on the island.

**Senator NETTLE**—So people could come from Christmas Island to the mainland. I am just trying to compare it to Nauru and find out how the processing is going to be different. So people could come from Christmas Island to the mainland.

**Senator Chris Evans**—The argument used in terms of the Pacific solution was that somehow by leaving people on Nauru, sometimes for long periods of time, the government would be able to find someone else who would take them out once they had been found to be needing our protection. The reality, as I understand it from my briefings from the department and from the experience of the previous government, is that while that had some limited success early on—some of the people off the *Tampa* who went to Nauru settled in New Zealand, for instance—the vast majority came to Australia.

The vast majority of the people who were subject to the Pacific solution ended up living in Australia. But the then government held out this sort of rhetorical position that somehow they were providing strong border security by leaving people on Nauru. The reality is that eventually the government had to bring them to Australia. Quite frankly, it seems to me that people were just left to rot for long periods because the government could not deliver on its promise to send them somewhere else. My advice is that the options for third country resettlement are extremely limited. We are not likely to get takers. The previous government had been unsuccessful in more recent times in finding alternative takers for those persons. So they were either left on Nauru or the government conceded and they came to Australia. The reality is that under this government they will be processed on Christmas Island and their claims assessed. If they are found to be deserving of protection they will be resettled.

**Senator NETTLE**—In Australia?

**Senator Chris Evans**—One might canvass other options, but look at what reality has been under the Pacific solution. Perhaps Mr Metcalfe can brief you on the situation in terms of third country resettlement issues and where we are at with all that.

**Mr Metcalfe**—I am certainly happy to. As the minister referred to earlier, the majority of people found to be refugees as a result of Australian officers interviewing them on Nauru were ultimately resettled in Australia. There were of course some people—largely that group from the *Tampa*—who were resettled in New Zealand. But following that 2001 resettlement, there was very limited resettlement elsewhere. A number of people went to Scandinavia but the vast majority came to Australia. It is the department's assessment that resettlement of people in other places is extremely unlikely. That is essentially for the reason that those folks are seen as Australia's responsibility and Australia is a country with sufficient resources to deal with the issue.

**Senator NETTLE**—But, Minister, you were saying that people would be resettled either in Australia or elsewhere.

**Senator Chris Evans**—I am not closing off the option, but I think the reality of the previous government's experience was that they were being resettled in Australia. I guess I am leaving the possibility open. If there were suddenly large numbers of people in a very short period of time, you might do something other than close off the possibility. But the political reality in Australia is that when we have found people to be in need of our protection and they have been properly assessed, then they have come to Australia.

The previous government maintained a rhetorical position and was quite successful in convincing the Australian public that something else was the case. But all the facts point to the reality that those people, including those from the *Tampa*, were largely resettled in Australia and the department advised me, as Mr Metcalfe just did, that the prospects for third country resettlement are very slim. I do not want to close the possibility off altogether. It may in a particular circumstance be an option that you might want to think about. But the reality is that we are dealing with unauthorised boat arrivals and the best way to deal with the situation, in my view, is at source: to encourage people not to go down the path of using people smugglers and not to take serious risks to the lives that are involved. Working with our northern neighbours is the key to that. I think that the previous government had some success



in its later years in those endeavours and it is certainly an endeavour that I have redoubled. That is the most constructive solution and, as part of that, we proved that we are serious about these issues and look to resettle people as part of our normal programs. The bottom line is that people will now be processed on Christmas Island.

**Senator NETTLE**—Would detainees on Christmas Island automatically have access to an IAAAS lawyer?

**Senator Chris Evans**—What I would say at the moment is that no decision has been taken on that. Currently, the existing regime is in place. I have been discussing options with the department, and that will be a decision for government. The situation is that the existing process is in place. I have had a number of people raise with me issues about representation, about third parties, and about whether people ought to be able to offer advice on people's rights. Those issues I am considering.

**Senator NETTLE**—Would asylum seekers on Christmas Island have access to judicial or other review of their cases?

**Mr Metcalfe**—In legal terms, Christmas Island is part of Australia, regardless of whether it is excised, in terms of the status of a person when they arrive here. You are probably aware of section 75(v) of the Constitution that indicates that the decision of a Commonwealth officer is subject to writs such as mandamus. So the answer is that if there is decision-making by Commonwealth officers in Australia then it is a matter that could be the subject of litigation.

**Senator NETTLE**—That Commonwealth decision making would be on the basis of the normal procedures followed, were they to be processed here in Australia?

**Mr Metcalfe**—That is assuming that the decisions in relation to a person's entry and/or stay are taken by Commonwealth officials.

**Senator NETTLE**—I thought that was what you said before. I was asking about who would do the processing on Christmas Island. You were saying the department.

**Mr Metcalfe**—That is right. As you know, Senator, I am just being very careful with my words. If in fact that continues to be the case, then those decision or actions would be the subject of potential action in the Australian courts.

**Senator NETTLE**—The procedure followed for processing would be as per Australia rather than like a UNHCR stand or anything we are talking about?

**Mr Metcalfe**—We certainly regard Australian standards of decision making and refugee matters as being, if not world's best practice, close to world's best practice and I think UNHCR would say the same. Certainly the quality of the training and the information available to decision makers, both at the primary and review levels, is something that is taken very seriously. It is our expectation that decision making would be quality decision making, and that is something that I think we have seen demonstrated in recent times.

**Senator NETTLE**—I am trying to compare it to Nauru, so not the Australia process, rather than—

**Mr Metcalfe**—You specifically mentioned the standard of decision making. The actual process that might be applicable is one of the issues that the minister is currently considering.

**Senator NETTLE**—Can you provide me with information on the two men in the current Christmas Island detention centre and where their cases are up to? Can anyone help with that?

**Senator Chris Evans**—One of the officers can help with the current status. The department have briefed me on what is a fairly difficult case, and I met one of the men when I was on Christmas Island. Mr Hughes might be the best to give the official status report.

**Mr Hughes**—The cases are still in process. Both of the cases are very complex. They involve character issues going back over a very long period. They involve ongoing consultation with UNHCR and we have not reached a final decision yet.

**Senator NETTLE**—How long have they been there now?

**Mr Hughes**—Since October 2006.

**Senator NETTLE**—Can I also ask about the family on Christmas Island? What is the current status of their case?

**Mr Hughes**—The current status is that their cases are being processed and we have not reached a determination yet.

**Senator NETTLE**—When did they arrive?

**Mr Hughes**—I am not sure of the period of time. I will just check.

**Mr Metcalfe**—It was late last year. We will see if we have a date, but it was in November or December, from memory.

**Senator Chris Evans**—I think it was December. I was the minister at the time so it must have been December.

**Senator NETTLE**—In relation to the 90-day limit in terms of processing, I notice from the latest situation report there are quite a few—243, I think—who have been there longer than 90 days, including 73 who have been held longer than two years. How is the 90-day limit going?

**Mr Metcalfe**—This is in relation to protection visa processing?

**Senator NETTLE**—Yes.

**Mr Metcalfe**—Madam Chair, we are in one of those situations where this question is actually in outcome 1.2, but I think Senator Nettle is approaching it from the detention angle, which is 1.5. We do have the officers available to answer.

**Senator NETTLE**—Thank you.

**Mr Illingworth**—As at June 2007, which was the latest tabled 90-day report, there were 503 cases finalised outside the 90-day time frame in the four months preceding the end of June 2007 and there were 372 cases over 90 days on hand. The processing of the department has shown, since the inception of the 90-day processing time frame, a dramatic drop both in the time taken to finalise applications and in the percentage of applications that are finalised outside the 90-day time frame.

The percentage of cases where we meet the 90-day time frame is about 80-plus per cent. The majority of cases where we do not meet the time frame are overwhelmingly attributable to delays that are beyond the capacity of the department to directly address. Those can be

input from other agencies for criteria that have to be assessed before visa decision. They can relate to checks with offshore agencies in relation to character—for example, criminal record checks, which clients are required to complete if they might otherwise be heading towards a favourable outcome. They can also relate to client generated delays where clients themselves seek further time to obtain evidence to support their case.

**Senator NETTLE**—Minister, are there any changes being made to implement the 90-day time frame? I know it is Labor policy about the 90-day time frame and that the previous government had made some changes in relation to the 90 days. Is there anything additional to that that the new government is doing to try to stick with the 90-day time frame?

**Senator Chris Evans**—I think that falls into the category of ‘under active consideration’. I do not mean to be unhelpful, but as I say we are working our way through the legacy issues. I have asked for advice on this as one of the things we are working on. No doubt when we come back in May I will be better placed to talk to you about that issue.

**Senator NETTLE**—I want to ask some questions about the Villawood detention centre, and in particular the HREOC recommendation in relation to stage 1 of the Villawood detention centre—the recommendation that it be demolished and replaced. What is the government’s response to that recommendation?

**Senator Chris Evans**—My own personal view is that stage 1 is totally unacceptable. The conditions there are appalling and I am very anxious to pursue what we can do in that regard. The department can give you their advice in terms of previous planning for a redevelopment of the site. I think the idea of a redevelopment of the site is probably the most plausible one. There is no doubt that there are serious issues with Villawood stage 1. I think what is not widely understood though is that a number of the people detained there are people with very serious criminal convictions. These are not bedraggled families of asylum seekers; some of these people have very serious criminal histories and are awaiting decisions about potential deportation. There is the sort of problem we were talking about earlier here: they have come out of the prison system and they have ended up there. The bottom line is that as part of that you have to provide not only suitable accommodation but also secure accommodation. So it is unacceptable. The department is very firmly of that view as well. Mr Metcalfe can explain to you where we are at in terms of the budgetary processes, but I am very keen to get that redeveloped. I must say that on my visit there I was also very much of the view that the management unit was not something that was acceptable either.

**Senator NETTLE**—The management unit in which stage?

**Senator Chris Evans**—In stage 3. That is effectively where they move people out to. In my view that is not acceptable. I am not sure whether the Ombudsman reported on the management unit. My personal view is that it is totally unacceptable as well. So we are at one with the Ombudsman in terms of the need for significant changes to be structural accommodation at Villawood. Perhaps Mr Metcalfe can explain where we are at with the sort of budgetary decision making.

**Mr Metcalfe**—I might just add to the minister’s comment that the department has, and has for some years, regarded the facilities at Villawood as being far from optimal. Indeed, stage 1 is a very poor, old facility which provides very poor amenity to those people who are resident

there and particularly difficult working conditions for staff who are providing services there. By contrast, we have been successful in refurbishing Maribyrnong detention centre. I do not know you have had the opportunity to visit Maribyrnong recently, but it is very much the case that when proper, modern facilities are provided that the level of tension associated with detention drops significantly, that better services can be provided, that care and management is easier—it is a win-win for all concerned. The Ombudsman and the human rights commissioner have spoken positively about that as an example of what can be done.

In relation to the Villawood, the previous government had considered various options for its redevelopment. There has been quite extensive consideration over a number of years, including whether or not there were other sites in the Sydney area which might be suitable. The conclusion reached last year was that there was really no other site, no greenfield site, suitable. There is money in the forward estimates—from memory about \$170 million or so—for the redevelopment of Villawood. How the government may wish to proceed with that is an issue for the current budget process. That, of course, is our hope and expectation, subject to all of the various approval process within government, the Public Works Committee and other areas—that that will allow us to ultimately replace stage one with a much more modern facility and to refurbish stages 1 and 3 to provide at least much more modern amenity in that section, which is the old migrant centre.

Even if that does occur—and that is something that I am very, very keen to advance in every way that I possibly can—realistically it will be some years before those facilities can be built, just given the lag times in approval processes and building times. So one issue the department is also considering is whether funds are available within overall budget situations for some shorter term remediation work, taking into account the human rights commissioner's very, very reasonable assessment of the facilities as being woefully substandard. Those issues are things that I would hope to be able to update you on at the next estimates hearings.

**Senator NETTLE**—I know there is a department response on the HREOC report, but is there a separate government response that comes for that or not?

**Mr Correll**—It is a departmental response that is provided. There has been an initial overall response to the HREOC report. The department works very closely with HREOC on these issues and the vast majority of the recommendations are supported. A more detailed recommendation-by-recommendation response is currently being finalised.

**Senator NETTLE**—I am just checking the process. I have seen the DIAC response, the department response, but there is not a separate government response to that—it is just a departmental response, is that right?

**Mr Correll**—It is a departmental response.

**Senator NETTLE**—Can I just ask about three of the recommendations in that? We have already talked about one of them. I want to ask about recommendation 9, on children in detention. It says:

In the event that they are detained for longer than three weeks, DIAC—

that is, the department—

should arrange some educational activities for juveniles detained at Darwin motels.

I want to ask about the department's response to three recommendations in particular.

**Mr Correll**—In that particular case, in relation to juveniles it is really referring to situations involving illegal foreign fishers in Darwin. In relation to illegal foreign fishers, our primary objective is to return them to their home country absolutely as quickly as possible, and the turnaround is relatively speedy.

In relation to that particular recommendation, where for any reason there is a delay, there would not be an objection—we would support the notion of that—but only where there was a delay occurring, and we would normally not expect it to be occurring, we would be looking to return them as a matter of urgency. On average, the amount of time spent in detention in the Darwin facility by illegal foreign fishers is something like two weeks, so it is a relatively fast turnaround.

**Senator NETTLE**—When you say you would support that occurring where there was a delay, does that mean that you would support somebody else doing it or that you would facilitate it to occur?

**Mr Correll**—We would look to facilitate that, where it was appropriate, but only in the circumstances where the primary objective—that is, rapid return—was not able to be achieved.

**Senator NETTLE**—The two other ones I wanted to ask you about are in the section 'Education and recreational activities'. There is one about Villawood that states:

Villawood Immigration Detention Centre should explore options for detainee access to books. Options include: visits to a local library, visits by a local librarian and internet lending.

Is there anything you can comment about in response to that recommendation?

**Mr Lamond**—Subject to conversations again with the minister, and as Mr Correll indicated, the recommendations are supported. We will be having discussions with GSL, the service provider, about excursions and an extension of the excursion policy, consistent with the recommendations made by HREOC. They make a number of recommendations about different things—for example, soccer games. We will work with GSL to work out the risk analysis, making sure we exercise our duty of care properly, not only to the people in detention but to staff and to the community more generally. To the extent that we can provide a greater range of activities, we will be talking with the minister about getting approval for that.

**Senator Chris Evans**—Mr Lamond, you do not need to be so careful. I indicated to the secretary that I think it is a very sensible recommendation from the commissioner. As I understand it, the department's firm advice—as it was in the evidence given by Mr Metcalfe in terms of Maribyrnong—is that when one denies people activity and opportunity and they are detained you increase the potential for disruptive, antisocial behaviour and frustration. As Mr Lamond said, within a reasonable risk analysis we ought to encourage greater activity because that will make life better for the detainees and a lot easier for the staff and the overall management of the detainees. I think it is a win-win situation. Subject to those sorts of discussions about the risk management, I think it is a very sensible recommendation from the commissioner and it is one that we are going to action.

**Senator NETTLE**—That is access to activities. I was asking specifically about the one for books, but you are including that in the overall activities.

**Senator Chris Evans**—I am saying that as a general approach. I understand there was some sort of knee-jerk reaction to the capacity for activity as a result of an incident involving one detainee, and a former minister clamped down on it. There are risks associated with it. There are risks with all sorts of things, like parole systems et cetera. You have got to balance the risks against the benefits. I think the commissioner's recommendations are sound and we will look to activate them, while looking to manage any risks.

**Senator NETTLE**—There is one other recommendation I wanted to ask about. It states:

DIAC should cease the policy which prohibits detainees from enrolling in courses leading to a qualification. DIAC should allow long-term detainees to enrol in substantive education courses at TAFE and other institutions ...

What can you tell me about that one?

**Senator Chris Evans**—The best answer is not to have long-term detainees, isn't it.

**Mr Correll**—Indeed. That goes to the situation where one does not want to have people in a position of having to participate in extended training courses like that. Having said that, in looking at the whole area of activities and in examining those recommendations, accredited training courses should be on the table. It is certainly something that we would be looking to give advice to the minister on in the follow-up to those recommendations to ensure that there is maximum flexibility and maximum opportunity in relation to the activities that are available—within a risk based approach.

**Senator NETTLE**—They are all the questions that I have for that area. We were talking about visiting Villawood. I will have to try and see if I have better luck getting into Villawood under this government. I have not had success under the previous government.

**Senator Chris Evans**—Senator Nettle, I could get you a bed for a week there if you want. In fact—

**Senator NETTLE**—The last government would not let me in.

**Senator Chris Evans**—I would have thought that they might have wanted to lock you up there for a week. On that general point, I have asked the department to provide me with advice about how we might have more transparency and openness about these centres. Fear and myths are perpetrated when people do not know what is occurring. I am keen to have more openness about how those centres operate. You are more than welcome to visit the centre, Senator Nettle, as are any other members of parliament. I am happy to facilitate that. It is my intention to pursue opportunities for others to visit. This has to be bound by (1) security and (2) the privacy of people in the centre, but I am keen for people to understand how it operates. I would be very keen to give Senator Ellison the opportunity to visit the centres. I am sure that he would find that useful, as I did. I am also keen to do that in relation to the Christmas Island facility. I took some of the local senior community people out with me when I went in early January. I have asked the department to ensure that there is greater community liaison about access to that facility. I understand that there is a rumour that there is an underwater submarine centre and that in fact the facility is not a detention facility but a

submarine base. In order to help dispel some of those wilder claims it would be better if people had a look at it. I am keen for that to happen. Generally, we will be looking to encourage people to enter. As I said, if you contact my office, Senator Nettle, I would be happy to organise for the department to take you in and give you a tour.

**Senator NETTLE**—Thank you.

**Senator ELLISON**—Still on 1.5, earlier this morning Senator Nettle asked questions about GSL's contract. I understand that there were some sensitivities surrounding this. If I recall, the contract has gone a fair way down the track and there is a question of compensation for tenderers. I do not know whether Senator Nettle asked the question of how long the contract had to run and whether there would be an interim contract put in place while this was being looked at.

**Senator Chris Evans**—I will just make it clear that there has been no decision taken by government in terms of the longer term. What I did was suggest that one of the issues is that, if one brings to an end the contracting service—as the previous government experienced with a couple of Defence contracts—you are then fronted with the cost of potential compensation claims from tenderers who have been through the whole process. But I will get Mr Metcalfe to give you the details about the arrangements he has put in place.

**Mr Metcalfe**—As we indicated earlier today, we are currently well advanced in a tender evaluation process for, from memory, the three tenders that were issued by the department in relation to the provision of services at detention centres. That is a very major undertaking for the tenderers, given that it relates to services in all those different facilities that we mentioned before. Indeed, during that tender process the previous government decided to close Baxter detention centre, and that required an extension of time for adjustments to be made. My recollection, and Mr Correll will correct me, is that we have extended GSL's contract until the end of this year—until December—to enable the new government time to assess its positions as to future activities and, as necessary, any transition arrangements that may or may not occur. Currently, GSL are providing the services until the end of this year, and the issue as to future services beyond that is a matter for government.

**Senator ELLISON**—Is the AFP involved in any way in any of the detention centres or in any of the centres that were mentioned earlier by Mr Lamond?

**Mr Metcalfe**—The answer is no, except that we have a standing arrangement that if there were to be a major security issue associated with one of the centres and that was not able to be managed within the normal resources of the contractor then we of course have a good relationship with the AFP and the APS and potentially could seek their assistance. That has not been needed for quite a long time.

**Senator ELLISON**—Are there any agreements with local state police in relation to any incidents or investigations? Are there any protocols in place?

**Mr Correll**—Yes, there are. Mr Lamond will correct me if I am wrong, but there is certainly an agreement in place with the South Australian police force and there are very well advanced discussions with the New South Wales Police Force as well in relation to establishing local protocols for state police services.

**Senator ELLISON**—No other local police, then—just those two states?

**Mr Lamond**—There are no other MOUs, but the centre executives have generally established very good working relationships with each of the state police forces or the commanders in the local area. They will provide assistance, should there be an incident.

**Senator ELLISON**—We brought in policing at airports, and to varying degrees there are state police—who are now AFP—at airports and there are a few airport installations. I just wondered what the arrangement was for them.

**Mr Metcalfe**—Certainly there is no security function for state police in the normal operation of the centres. They have always been regarded as a Commonwealth responsibility: Commonwealth land, Commonwealth jurisdiction. I recall from my previous experience that there was an issue to do with the presence of the state police in a community policing function at airports, where so many people pass through each day. However, as Mr Correll and Mr Lamond have indicated, we have good relationships with the police forces throughout Australia. In extreme circumstances in the past the police have provided security assistance and backup and support. I recall that particularly in relation to some incidents in South Australian detention centres in the past. There is also an issue if crimes are committed which might be offences under state law. That is an issue that we have had some good discussions on with New South Wales, particularly in recent times.

**Senator Chris Evans**—Can I just indicate, Senator Ellison, that one of the issues that I intend to pursue—and I have had a preliminary discussion with Mr Debus about it—is the relationship with correctional services ministers in each state. A large number of people with very serious criminal convictions come out of the prison system and end up in the immigration system. I think you have to ask the question: are they most appropriately detained in the immigration system and are the immigration department the most appropriate people to provide those services? I understand that there were arrangements in place many years ago with correctional services in the states. I am keen to see if we cannot, as part of the more orderly processing, revive some of those arrangements which saw them enter into arrangements with the Commonwealth for the detention of some of those cases.

**Senator ELLISON**—I think that is a good move. As a past member of the correctional services ministerial council, I can only wish you good luck.

**Senator Chris Evans**—I did receive similar advice from elsewhere. New federalism should open the door.

**Senator ELLISON**—We saw that the other day with Stanhope.

*Senator Payne interjecting—*

**Senator CHRIS EVANS**—You think it is a courageous assumption on my part, do you, Senator Payne?

*Senator Payne interjecting—*

**Senator ELLISON**—We will compare notes in May. A lot of the ground has been covered in some of the questions that have been asked. The former shadow minister for immigration, Tony Burke, said repeatedly:

A Labor government would only detain these individuals for health, security and identity checks.



They would then be released. The Deputy Prime Minister has said in the past, ‘Whilst retaining mandatory detention as our policy for the proper purpose of health, identity checks and getting processing happening, we are actually putting forward a whole new detention model, which includes the use of open hostels.’ I think that is a point of difference between the government and the coalition, in relation to past practice. Once these health, character and identity checks have been carried out, will unauthorised arrivals—illegal foreign fishers and visa overstayers—then be released into the community?

**Senator Chris Evans**—First of all, those comments by the shadow minister were actually in relation to unauthorised arrivals. We made it clear during the election campaign that we would retain mandatory detention. I am certainly looking at options. They are issues under consideration by me, and by the government more generally. Since taking up the portfolio, I have been impressed by the significance of the changes made in 2005. The change in approach by the previous Howard government has resulted in a very large decrease in the numbers in detention. Some of that has been driven by other factors, but the figures went down steadily since that change, and are now not at record low levels, but certainly very close to record low levels.

The former government also started a number of alternative housing options, and I am keen to assess and pursue those. The community care option is one that is being assessed. They have had quite a deal of success in persuading persons to return voluntarily. An interesting by-product of having them out in an environment that is a little less threatening and institutional is that a greater percentage of people are choosing to return home voluntarily, having been in that situation under a trial commenced by the previous government. There are some innovative things happening already. I want to have a look at those, and look at the options that we have got. You would be well aware of the legal responses and the correctional services responses: in that context you have jail, parole, security bracelets, reporting regimes and curfews, et cetera. I do not want to draw a direct comparison, but one of the things that strikes me most is that the options in the migration and detention area are very limited in comparison. I am keen to pursue what other options might be available to us in order to better manage the cohort, as it were.

**Senator ELLISON**—And you would be looking at those things you have just mentioned—the correctional services approach? I am not referring only to those, but to some of them.

**Senator Chris Evans**—It just struck me that there are all those options within correctional services. When I came to the portfolio, the options I seemed to be presented with were: ‘You can lock them up or you can let them go’. The previous government had started looking at, and developing, some of those different housing options. I was keen to look at some examples of how other countries better manage the cohort, if they are assessed as not being a threat. I do not want to commit myself too far—I am just giving you an idea about my thinking. I am certainly keen to look at whatever options are open to us to better manage those that we detain.

**Senator ELLISON**—Similarly, with people who are on appeal and have previously been kept in detention: would you look at allowing them into the community once they have lodged an appeal, or would it be the status quo? One of the problems we have is that people

say, 'Look, they are in there for such a long time.' But as I said to someone the other day, if you lodge an appeal there are so many rungs to go through that by necessity it takes time, and so they are in detention for that period of time.

**Mr Metcalfe**—The whole rationale and legal basis of immigration detention can be summed up by the word 'availability'—that if a person arrives in Australia and their identity and circumstances are unknown they are available so that the question of those circumstances and of whether Australia may have any obligation under international law in relation to that person can be resolved; or that if people are visa overstayers or potential criminal deportees they are available for resolution of their case or for removal, whatever that might happen to be. As the minister indicated, that issue of availability can be achieved in a number of ways. Under arrangements initiated by the previous government the range of options did increase. It increased from being allowed into the community on some form of temporary visa or bridging visa and it expanded from being in detention to there being now a range of detention infrastructure—from detention centres, residential housing and transit accommodation centres, to the concept of so-called residential determinations—which is essentially a recognisance that a person will stay in a particular place and report regularly—and through to a looser form of reporting arrangements. The minister has indicated that there are even more options that might be available to ensure that availability for a person to go through some further form of process.

The issue you raise of review and litigation has been a vexed issue, not only for us but for all immigration authorities in comparable countries, because of the potential and the right of people to seek review of decisions, whether it is merits review or judicial review and there being multiple layers of review. Some people do in fact spend lengthy periods of time pursuing their particular circumstance. Ultimately, it is an issue, I think, for the department as to what the correct response is in each circumstances to ensure the availability of that person. Is there a necessary reason for the safety of the community or a reason associated with the person's own record of failure to comply with other arrangements to keep that person in a more formal detention arrangement? Or is there an appropriate option through that whole range of options the minister has just outlined which might include some form of loose reporting arrangement, with many options in between? That is where policy has been taking us for some time, particularly since the previous government's changes from June 2005, and that is an area that the minister is obviously exploring now as he works through these issues.

**Senator ELLISON**—I have no further questions on 1.5.

**CHAIR**—We will move on to 1.6. Do you have questions there?

**Senator ELLISON**—The program I have got has '1.8, Systems for people' and it also has '2.5, Systems for people'. Is that right? This is the Systems for People program which I think you announced last May in your opening statement.

**Mr Metcalfe**—Yes.

**Senator ELLISON**—Is it under both those outlays?

**Mr Metcalfe**—It is. We have included it as a service to both outcome 1 and outcome 2. Mr Correll is the chief information officer and the appropriate officer to deal with that matter and

we could handle it under either of those outputs. It is fair to say that most of the current action in Systems for People relates to services for outcome 1.

**Senator ELLISON**—Madam Chair, I do not have any questions on 1.7. I have a couple of questions on Systems for People, but I am not sure whether it is best under 1.8 or 2.5.

**CHAIR**—How many questions do you have for 1.6?

**Senator ELLISON**—I do have some questions on 1.6.

**CHAIR**—We will start with 1.6. Senator Nettle also has questions on 1.6, and she will be here soon.

**Mr Metcalfe**—In relation to 2.2, Translating and interpreting services, our officer responsible for that matter has travelled up from Melbourne. If he is not required it would be nice to be able to let him go.

[9.08 pm]

**CHAIR**—We will deal with 2.2, Translating and interpreting services, and then the officer can go.

**Senator ELLISON**—Dealing with translating and interpreting services, the national platform said:

Labor's policy agenda will be achieved through programs that:

... ..

continue the provision of interpreting and translating services to eligible clients and work with the States and Territories to address issues facing the interpreting workforce ...

What is the government doing in relation to this and are there any reviews planned in relation to this?

**Senator Chris Evans**—The whole premise of your questions today has been to read me the platform and ask me whether, after 11 weeks, I have implemented it fully. To be honest, I am getting a bit tired. I am happy to be held accountable but, quite frankly, I am not going to be lectured by former Liberal Party government members on accountability. We all remember core and non-core promises. I am happy for the officer to advise you what is occurring. I have taken up some issues in this area as a result of representations from some people involved in translation services in Perth, who actually came to our community cabinet and raised some legitimate policy issues with me. That is the only activity I have had in this area so far. I am sure the officers can help you with progress in that area.

**Mr Vardos**—As the minister has said, we have opened up a dialogue with the Western Australian Institute of Interpreters and Translators, which is a professional body. They have a number of issues to do with translating and interpreting in relation to the National Authority for the Accreditation of Translators and Interpreters. Through dialogue we have started to see where there are issues that the professional body thinks some work can be done.

We are looking at initiatives that we are already funded for. For example, we have a fee-free service for certain eligible clients. In the recent past we have been trialling a program where we have extended the fee-free service beyond doctors to certain pharmacies. That is an

initiative that has been implemented in the last 12 months. My colleague Ms Pope may be able to expand on that if that is the area you are interested in.

The National Authority for the Accreditation of Translators and Interpreters, NAATI, recently had their AGM and a number of issues have come up in that context that we will take forward. NAATI is owned by the Commonwealth and the other seven state and territory governments.

**Senator ELLISON**—You mention Western Australia. Is that the first state in which you have had that discussion?

**Mr Vardos**—There is not a professional body in every state. I cannot say why but there just happens to be a professional body in Western Australia and they are quite vocal and active in what we call the T and I industry.

**Senator Chris Evans**—They are a very impressive and forthright group of women, Senator Ellison. I will send them around to make sure you have the correct line on issues.

**Senator ELLISON**—Please do. What about other states?

**Mr Vardos**—There are no professional bodies in other states. We deal with the multicultural/settlement areas of state governments that deal with cultural diversity issues. In fact, there is a meeting in Melbourne of the Standing Committee on Immigration and Multicultural Affairs on 28th and one of the issues we will be discussing is translating and interpreting.

**Senator ELLISON**—Thank you.

**CHAIR**—Thank you for coming all the way up from Melbourne. We have no questions in output 1.7. It would also seem that there are no questions for 2.1, Settlement services.

**Senator ELLISON**—I have questions under 2.1, 2.3 and 2.4.

**Mr Metcalfe**—At a convenient time there are a couple of issues that Senator Nettle raised before in relation to questions on notice from the last estimates. She asked for an update. I now have that information.

**CHAIR**—Perhaps we will do that now.

**Mr Metcalfe**—Going back to 1.2, Senator Nettle asked about question 69 from the estimates of 21 May 2007. I think Senator Bartlett asked a question about the total amount paid to IOM in Indonesia. We provided an answer that to 30 April last year that figure totalled \$25.3 million. The updated figure, that is, for July 2000 to 31 January 2008, payments to IOM to meet the costs of providing practical support to intercepted irregular migrants in Indonesian have totalled some \$27.9 million.

The second update was a question from Senator Ludwig, No. 74, from 21 May 2007—Senator Nettle asked for an update on that. That related to how much DIAC funds IOM for a range of programs or initiatives. The updated answer is that funding provided by DIAC to the International Organisation for Migration for activities in Indonesia between 1 July 2007 and 31 January 2008 was A\$2,072,000 million.

The other question that Senator Nettle asked for was an update on No. 73 from 21 May 2007. Senator Ludwig asked us to provide details of all the arrangements with Indonesia.

Senator, the update is fairly lengthy. I can read it all into *Hansard* or I can table it now. Essentially, it takes the document from last year and provides a series of updates largely relating to the initiatives announced by Minister Evans during his visit to Indonesia last month. I will provide that to the secretary.

**Senator NETTLE**—With question No. 74, in your previous answer you had a breakdown of the money going to each of the programs and initiatives IOM is running in Indonesia. Is it possible to get that?

**Mr Metcalfe**—Yes. The breakdown that I have now I did not provide to you because all of that \$2.072 million, I am advised, has gone to the particular item of providing practical support for the care of intercepted irregular migrants in Indonesia, which is the entire total, \$2.072 million.

**Senator NETTLE**—I am particularly interested in the IOM's management and care of intercepted irregular immigrants project. Are there other countries contributing to that as well or is it only Australia?

**Mr Illingworth**—That is a project that Australia has agreed to fund IOM to undertake.

**Senator NETTLE**—I was just asking whether there are any other countries or is it just Australia funding it?

**Mr Illingworth**—Just Australia.

**Senator NETTLE**—When you answered question No. 73 for Senator Ludwig before it was 'future arrangements will include', so I just wanted to know at what point that program started.

**Mr Illingworth**—The funding agreement occurred last year.

**Senator NETTLE**—Do you have a more specific date than that?

**Mr Illingworth**—No, but I can find out a particular date if you want that level of detail.

**Senator NETTLE**—Thank you. In the UN description of the project it is described as 'quarantine facilities in Tanjung Pinang and Jakarta for irregular immigrants taken into custody by imigrasi'. Does that relate to two facilities or are there more than that?

**Mr Illingworth**—There are separate facilities. There are existing centres at Tanjung Pinang and in central Jakarta. The funding will be focused on the refurbishment and expansion of those existing facilities together with a program of training of staff to ensure that these centres are operated in accordance with international standards. Another element of the project is to fund the establishment of a unit in the Director-General of Immigration to take responsibility for assisting people wishing voluntarily to return.

**Senator NETTLE**—Do you know how many people those two centres hold?

**Mr Illingworth**—I have figures for Tanjung Pinang. In that centre the accommodation will be increased from 100 to 400 persons with a surge capacity of 600 persons. Refurbishment aims to raise accommodation to international standards.

**Senator NETTLE**—Do you have figures for Jakarta?

**Mr Illingworth**—No, I do not.

**Senator NETTLE**—Could you take that on notice?

**Mr Illingworth**—Yes.

**Senator NETTLE**—What is the time frame for the refurbishment?

**Mr Illingworth**—I do not have a time frame for completion of the project at this stage. It is in the early stages of implementation and a tender process is underway.

**Senator NETTLE**—Are the decisions about how that centre is run—who is held there and the processes—all made by Indonesian Imigrasi?

**Mr Illingworth**—That would be for Indonesian authorities.

**Senator NETTLE**—So they would decide who is held there and do the processing.

**Mr Illingworth**—That is right.

**Senator NETTLE**—Is there an ongoing cost for maintaining the centre?

**Mr Illingworth**—The information I have does not indicate that there is funding from Australia for ongoing costs apart from the elements which relate to training.

**Senator NETTLE**—Is the refurbishment of the centre based on Australian immigration centres or the Indonesian quarantine facility?

**Mr Illingworth**—The aim is to take the existing accommodation in the centres and raise the standard and the number of occupants it can hold to meet international standards. I do not know that it is using Australia as a particular model.

**Senator NETTLE**—Is the facility for women and children, for men or for all?

**Mr Illingworth**—That would be an issue for other authorities, not Australia.

**Senator NETTLE**—In the past we have had instances where people who are attempting to come to Australia are returned to Indonesia. Is this the kind of facility that they would be going back to? Is that part of the arrangement or not?

**Mr Illingworth**—It is conceivable, but the aim is to contribute to the improvement of standard of accommodation for individuals detained by the Indonesian authorities. Who those individuals are and their relationship to people who might have been attempting to come to Australia is a matter for the Indonesian authorities.

**Senator NETTLE**—So the ongoing involvement from the department would be just in relation to training. Is that correct?

**Mr Illingworth**—That is right. The project is fundamentally a refurbishment and expansion project with training and management components.

**Senator NETTLE**—I was asking earlier whether there was a quarantine facility on Makassar Island. Is that the Tanjung Pinang one, or is that something separate?

**Mr Illingworth**—I would have to take that on notice.

**Mr Metcalfe**—It is not something familiar to us, so we will take that on notice. We certainly know about Tanjung Pinang and Jakarta, but not Makassar.

**Mr Hughes**—Makassar is quite distant from both of those.

**Senator NETTLE**—Right. So Australia is not funding a quarantine facility on Makassar that you know of?

**Mr Metcalfe**—That is not at the front of our knowledge at the moment. We will double-check to be safe.

**Senator NETTLE**—That is the end of my questions on the IOM matter.

[9.24 pm]

**CHAIR**—We will now move to output 1.6, Offshore asylum seeker management.

**Senator NETTLE**—What is the current status of the detention centre on Nauru?

**Mr Correll**—The current status of Nauru is that, effectively, it has ceased operations. There are no people in the offshore processing centre. Officials from the department visited Nauru between 4 and 8 February with our colleagues from the Department of Foreign Affairs and Trade for discussions concerning completing the wind-up arrangements with the processing centre. It is effectively no longer operating.

**Senator NETTLE**—Are there any staff remaining there?

**Mr Lamond**—Yes, there are staff remaining at the facility. We have had conversations with IOM. They are gearing up for the formal closure of the centre. There are some residual services. IOM will be offering their local staff severance packages. In relation to the employment structure, IOM have five international staff, had employed 21 locals and two local contractors, making a total of 28. Overall, 90 people were employed as caterers, basically 51 local staff. The AFP had staff located there but on a rotational basis. Those police officers will return to Australia, where they will be absorbed into the general policing function. DIAC had staff on a rotating basis on the island but no locally engaged employees. So we are gearing down, and the centre will be closed in accordance with government's and the minister's wishes by the end of March.

**Senator NETTLE**—Thanks. And that is not mothballed; that is closed—is that correct?

**Mr Lamond**—There are a set of negotiations with the Nauruan government about the remediation of the site—which is a DIAC requirement. Our colleagues in DFAT are having other conversations. The centre is empty and locked.

**Mr Correll**—It is not mothballed; it is closed.

**Senator NETTLE**—I can ask DFAT about ongoing negotiations. So the payments to Nauru that were associated with the centre would also cease? Is that a question for you or is there somebody else I should ask?

**Mr Casey**—There were no direct payments to the government of Nauru for the operations of the centre. There is an MOU—which you have already indicated you could discuss with DFAT—for ongoing aid and assistance to Nauru, and that does provide for financial support from Australia to Nauru for its reform process and for assistance.

**Senator NETTLE**—All right. I will ask DFAT that. What have been the total number of people that have gone through Nauru and Manus Island centres?

**Mr Casey**—The total caseload was 1,637 people arriving between 2001 and 2007 on Nauru and Manus Island.

**Senator NETTLE**—Can you give a total cost?

**Mr Casey**—The cost of the program was \$289 million, between September 2001 and 30 June 2007.

**Senator Chris Evans**—Senator Nettle, I can tell you that, on the basis of my calculations of the number of people held and the nights they were there, taxpayers paid about \$2,500 a week to detain each of those held offshore.

**Senator NETTLE**—You would expect a pretty nice hotel room, wouldn't you, for \$2,500 a week?

**Senator Chris Evans**—No-one could claim it was a cheap option. Those are my figures by calculating the number of days we had people detained. It seems it is in the order of \$2,500 a week to detain each of those held offshore and they were there for an average of about a year.

**Senator NETTLE**—There used to be a table that we got as part of questions on notice—I think Senator Ludwig used to ask for it—about the cost of processing detainees at the different detention centres. Is it possible to get an update of that table? I am happy to have that on notice.

**Mr Correll**—Yes, it would be. We would take that on notice. We do not have that immediately to hand.

**Senator TROOD**—Mr Correll, you say that the centre is closed, and in accordance with the government's decision the staff that are Australian based will be back in Australia by the end of March. You say 'closed', but do you mean it will also be dismantled?

**Mr Correll**—The vast majority of the assets that exist at the offshore processing centre—most of which I understand, and my colleagues will correct me if I am wrong, are owned by IOM—will be provided to the Nauruan government, effectively handed over. At the present stage a process of discussion is occurring with members of the Nauruan government. A joint working group has been established to work through the whole management of the handover of assets and the use of residual facilities that might exist there. Those processes are underway at the present stage. It is effectively closed for the purpose of operating as an offshore processing centre. At the present stage, it is being kept under secure watch by IOM whilst the process of negotiating how those assets will be handed over is finalised with the Nauruan government.

**Senator TROOD**—I understand you are saying there is a process of negotiation—is that a matter for your department, or are you saying that it is a matter that is essentially in the hands of DFAT under the MOU? I realise there is an MOU. In fact, I have realised there has been an MOU for quite a long period of time, Mr Metcalfe, but I have never seen it, of course—regrettably. I do not know the contents of that, but I am interested to know the extent to which the department of immigration is involved in these matters.

**Mr Correll**—The overall lead role in relation to ongoing aspects of support for Nauru is with the Department of Foreign Affairs and Trade. However, there are direct issues associated with the offshore processing centre and its assets which are clearly this department's



responsibility. We are working closely with DFAT in the discussions with the Nauruan government and officials for the resolution of those resources and assets associated with the processing centre. Subsequently, broader issues in relation to support for Nauru would be handled through DFAT.

**Senator TROOD**—Is it intended, or hoped, that these matters be concluded by the end of March as well, or is that a matter that is likely to take somewhat longer?

**Mr Correll**—I would expect that the issues associated with the offshore processing centre—the issues that this portfolio has primary responsibility for—will be resolved by the end of March. Broader issues may take longer.

**Senator TROOD**—I see. And these are matters that we might pursue, perhaps, with DFAT later in the week—you can feel comfortable with that, I imagine, Mr Correll?

**Senator Chris Evans**—I think Mr Correll has indicated we are very aware of our responsibilities to Nauru. We are very keen to work closely with Foreign Affairs to reach a proper settlement that recognises the efforts they made on behalf of Australia and to recognise also the impact this will have on Nauru economy. So there is no lack of understanding of the situation it places them in. We are very keen, as a government, to negotiate outcomes that support them as we remove ourselves from that particular activity on Nauru.

**Senator TROOD**—Is this likely to involve some payments of some kind to the Nauruan government—either a one-off payment or over a period of time—beyond the aid package that exists?

**Mr Correll**—Beyond the issue of the closure of the offshore processing centre, I think those matters are really better addressed to the Foreign Affairs and Trade portfolio.

**Senator Chris Evans**—They have got the lead on that.

**Senator TROOD**—I understand that. Given that you are before the committee at the moment, I am interested to know whether or not the department may have any continuing obligations in relation to this settlement or the resolution of this matter.

**Mr Metcalfe**—I think the answer is no. Essentially, we see our role as ensuring the timely and orderly closure of the facility, which has now occurred, and the issues that Mr Correll and Mr Casey have discussed in relation to the assets and their disposal. The longer term issues are matters which the department of foreign affairs is handling and of course we are working very closely with them to ensure there is a coordinated Australian approach on this issue.

I should take this opportunity on behalf of the department to say that this closes a chapter in the department's work over the last seven years, and it is an opportunity for me on the record to thank the government and the people of Nauru for working with us in implementing the policies of the previous government. We are very properly implementing the policy of the new government in the closure of the centre, but that does not mean that the assistance and support provided by many Nauru citizens and government leaders to those efforts over the last few years has not been very much appreciated by the department.

**Senator TROOD**—I endorse those remarks, Mr Metcalfe. I think that is an entirely appropriate set of observations to make about the matter. I am interested to know whether or not the department of immigration might have any financial obligation, beyond the tying up

of the centre, in relation to longer term reparations perhaps, or something of that kind that might be a drain on its finances.

**Senator Chris Evans**—I think the answer to that it is no. It certainly has not been raised with me at all. The negotiations have been carried by the department of foreign affairs as the lead agency and settlement of any issues beyond the management of our immigration assets will be a whole-of-government response. I do not anticipate that, whatever settlement is reached—and I do not want to prejudge that, I have got no idea of the detail—it will be an ongoing budget item for the department of immigration. I would be very surprised if it is.

**Mr Metcalfe**—Just supplementing what the minister said, we would expect to continue a professional working relationship with the Nauruan government on immigration and border management issues. We have an active membership of the Pacific Immigration Directors' Conference and that is an area where we would seek to continue to work with our colleagues in that respect. So we will continue to have a professional working relationship. In relation to the centre, that is closed and, after the final arrangements in relation to the disposal of facilities have been made in the forthcoming period, we would see that as the end of our involvement with the issue.

**Senator TROOD**—Thank you.

**Senator ELLISON**—Did the government advise the Nauruan government of its decision to close the processing centre prior to publicly announcing that on 17 December last year?

**Senator Chris Evans**—I will take that on notice if you do not mind, because I do not have in front of me the exact dates of communications et cetera. The Nauruan government made it clear they understood that it was the policy of the incoming Labor government and that they had been advised of that, but as to the formal government-to-government correspondence or interaction it is probably best asked of Foreign Affairs. But I will take it on notice and get you an answer.

**Senator ELLISON**—Thank you. I have no further questions, Madam Chair.

**CHAIR**—All right. So that completes 1.6. We will move to—

**Senator TROOD**—Sorry, Madam Chair. I was not sure where this question should be asked. It is a matter of policy which I think is probably directed to the minister. It could be here or it might have been in an earlier output. It concerns the Australian migration zone, about which there seems to be—at least in my mind and I suspect in the government's mind—confusion about the intentions here. Again, the policy of the Labor Party in opposition was that it was going to retain the migration zone in respect of certain parts. The former spokesman on migration, Mr Burke, made it relatively clear, I think—very unambiguously clear—that he was, as the spokesman, determined that the migration zone be changed in relation to the additional islands. There now seems to be some question as to whether or not that is the intention of the government. Could you, Minister, clarify your intentions in relation to this matter for us.

**Senator Chris Evans**—I can repeat the answer of the earlier debate if you want, Senator Trood, but we have been through it before. When you rightly brought your attention to the question of whether we repeat evidence, we did actually cover this ground earlier.

**Senator TROOD**—I apologise if that is true.

**Senator Chris Evans**—I must admit that I do not accept all the assumptions in your question either, but it is all in the *Hansard*.

[9.41 pm]

**CHAIR**—Let us go to output 1.8: Systems for People.

**Senator ELLISON**—And 2.5 as well. It will be short and quick.

**CHAIR**—Can we do output 1.8 and output 2.5 together, Mr Metcalfe?

**Mr Metcalfe**—Yes.

**Senator ELLISON**—I think that is what was said.

**CHAIR**—Can we do Systems for People under output 1 and output 2 together?

**Mr Metcalfe**—I advise that if there are questions on Systems for People it is best if they are asked all together and probably now.

**CHAIR**—Let us do that now, then. So we are doing output 1.8 and output 2.5.

**Senator ELLISON**—Mr Metcalfe, when you announced this in May last year in your opening statement it seemed like a good program to me and one which was worthy of pursuit. How has the Systems for People program progressed? Has there been any delay in the rollout of it?

**Mr Metcalfe**—I will provide a very general response and Mr Correll can go to the detail. The program is very welcome, very timely and very important. The genesis of the program lay in the previous government's response to the Palmer and Comrie reports, which pointed to major deficiencies in record keeping in immigration information systems within the department. As a result of that report the department commissioned four specialised reports which ultimately provided advice to the previous government and which were the basis for the announcements, in the budget in 2006, of Systems for People as a program. Essentially, it seeks to substantially modernise departmental systems. Our existing systems have grown up over time. They have largely been designed around specific applications or processes and have had relatively limited interchange of information within them. That has led to some significant problems for us. For example, from recollection Ms Alvarez was known to the department under a variety of different names. That is no particular fault of hers—I am certainly not suggesting that it is—but she was known in various iterations of the names 'Alvarez', 'Solon' and 'Young', which was her husband's name, and there were different spellings of those names.

One of the very unfortunate facts in that very sad case was the fact that the linkages of her status within various departmental systems were not made. There was no single view of her immigration status available to officers, hence the tragic assumption that she was an unlawful noncitizen persisted until her departure from Australia.

One of the many things that Systems for People is seeking to do is to address that single point, and there has been very good progress made on getting a single view of our clients over their status. There have been a series of releases of the system now. Like any major IT system it has not been smooth sailing. It has certainly been successful in some areas but it has been

difficult. I would like to pay tribute not only to Bob Correll but also to the many hundreds of staff and contractors who have worked on this program, often putting in very long hours and working through weekends to ensure the systems releases were in fact successful.

Earlier this morning there was some discussion about the funding for the program. Essentially we identified quite a few months ago that there was a shortfall in the funding available for capital in this, the second major year of the program. This is the year when a great deal of technology is being translated into capital, and that has been the subject of a review. There is funding in the additional estimates to provide additional capital funding this year. So it is a very important and a very significant program which is making good progress and has a long way to go. We have now had a major review coming on top of a series of other gateway reviews and considerations along the way. That has given us a very clear direction for the future both in terms of governance and project management. It continues to be very important, and the department will continue to ensure that we do everything we possibly can to ensure it is successful.

It will essentially be the platform for the department's continuing transformation into a more modern service delivery authority. We are somewhat down the track, but we believe there are major efficiencies to be gained through better processing and through better ways of working with our clients. There are efficiencies for government, there are efficiencies for our clients, there are efficiencies for business. Systems for People gives us the capability to achieve that. From what I have already seen in some of the work that has been done, there are very substantial areas of progress being made. It is an important program and I am sure it is something that we will continue to talk about for a while to come.

**Senator ELLISON**—Thank you. I have no further questions on that.

**Senator TROOD**—I very much doubt this is the right area to ask it but since we are talking about Systems For People, I think that I at least might raise the matter. Mr Metcalfe, does the department intend to continue with its local liaison officers for the assistance of immigration issues within the department for members of parliament and senators?

**Mr Metcalfe**—It is certainly not the right area but I am happy to talk about it.

**Senator TROOD**—No, I did not think so. But I assume it is a matter we can dispose of reasonably quickly.

**Mr Metcalfe**—The short answer is yes. We regard our parliamentary liaison officer network as a vital point of easy access for members of parliament and their electorate staff into the department. I am proud to say that my very first job in the department many years ago was as a parliamentary liaison officer in Queensland. We acknowledge that our processes and requirements can sometimes be difficult to understand and we know that many members of parliament receive large numbers of contacts and representations in relation to immigration issues. So that system of parliamentary and ministerial liaison officers—which I invariably get terrific feedback about from members and electorate officers—is certainly something that we would seek to maintain and, if possible, continue to enhance.

**Senator TROOD**—That is very good news, Mr Metcalfe, because I can give you further feedback. It has been most valuable to my office and, I think, to the people who have

approached me on these issues. I think it has facilitated and enabled us to resolve some complicated issues very quickly.

**Mr Metcalfe**—I am pleased to hear it.

**Senator Chris Evans**—I also indicate, Senator Trood, that I think it is a very good function and will be supporting it. I also think one other thing we need to look at is further contact with members' offices to explain the advantages of the system and the opportunities for members and their electorate staff. After each election you get quite a turnover in members and senators and, secondly, a huge turnover in electorate staff. One of the challenges is to make people understand the resource is there and that they go through those channels in the first instance. I have a note to raise with the secretary after some approaches from some of our new members of parliament and some of the inquiries that come into my office that people need to understand it is there and how to use it. I will be talking to the secretary on how we make sure that people new to the system understand how it works.

**Mr Metcalfe**—Like a very good public servant, I have anticipated the minister's conversation with me and I can tell you we are having a seminar for electorate office staff in Queensland on 29 February and your staff would be very welcome to join us in Brisbane. They probably have an invitation already.

**Senator TROOD**—Thank you.

[9.51 pm]

**CHAIR**—We can now move on to outcome 2, A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably.

**Mr Metcalfe**—Senator, as I mentioned earlier, could I say a few words about a departmental officer who is retiring?

**CHAIR**—Certainly. Perhaps you can start and I will endorse your comments.

**Mr Metcalfe**—With your indulgence, Chair, it is not something I usually do but I think that it is pleasant to actually mark the contribution of a department officer, in this case Dr Thu Nguyen-Hoan, who has actually appeared before this committee over many years. Thu is in the room here tonight.

**CHAIR**—She should be invited to the table.

**Mr Metcalfe**—She is getting closer to the table. Thu has had a remarkable career. She came to Australia from Vietnam in the 1960s as a Colombo Plan student. She has a doctorate in chemical engineering, which I suspect would have been one of the early doctorates in chemical engineering for an Australian woman. She joined the Australian Public Service in 1984 and joined the Office of Multicultural Affairs when it was created in 1987 by my former colleague Dr Peter Shergold. She came to the department in 1996 when that function was transferred to the Immigration portfolio. Since 1996 Thu has headed the multicultural affairs branch with distinction. She was awarded the Public Service Medal in the year 2000 for her outstanding work in the delivery of cultural diversity policy and the promotion of social cohesion in Australia. Just in the last couple of years she has undertaken ground-breaking work in the area of counter-radicalisation, which has been of great assistance in Australia and

is of great interest internationally. This is her last estimates as an officer of the department, so I hope you ask her some questions.

**CHAIR**—She is breathing a sigh of relief, I notice.

**Mr Metcalfe**—Thu is retiring after 24 years. In this forum I would like on behalf of the department to thank Thu for all she has contributed and to pay tribute to her long and dedicated service to Australia and the people of Australia—a country where seven million people have migrated since World War II, including 700,000 refugees; where now one in four of us was born overseas; and where half of us were born overseas or had a parent born overseas. Her work in the areas of cultural diversity and social cohesion I am sure will leave their mark for many years to come.

**CHAIR**—Dr Nguyen-Hoan, can I say on behalf of the committee, even though I have just been chair of the Senate Standing Committee on Legal and Constitutional Affairs for less than a week, that your legacy has no doubt seen many senators come and go, and probably many governments and many ministers come and go. I do not know whether you have a biography planned, but it would be very interesting.

People like you are such an integral part of the Australian Public Service. I think it is important to recognise your contribution over decades and to make sure that on behalf of all of us—all the people you have touched and all the colleagues you have worked with—we publicly acknowledge the great service you have given to the Australian Public Service. Thank you very much, on behalf of all of us.

**Dr Nguyen-Hoan**—Thank you very much. It has been a great privilege for me to serve this very dear country of mine. I came to Australia as a student and I was able to stay as a migrant. Being able to serve the country with all that I have got has been a great privilege. Australia is one of the best countries in the world. I am very proud to say that Australia is very dear to me. And thank you for the acknowledgement.

**Senator ELLISON**—Madam Chair, can I associate the coalition members with the comments made by you and by the secretary. We acknowledge your great service, Dr Nguyen-Hoan, especially in these circumstances, where we have seen someone come from another country and then achieve great things in a department which is all about bringing people in from overseas and seeing them prosper and do well in Australia. So thank you very much from all of us.

**Dr Nguyen-Hoan**—Thank you.

**Senator Chris Evans**—On behalf of the government I endorse Mr Metcalfe's remarks and acknowledge your tremendous service. But I want to know why you're leaving, and I want to know why Mr Metcalfe hasn't retained you—and I will talk to about that shortly!

**Mr Metcalfe**—I am sure we will see more of her; we will see her again.

**Senator Chris Evans**—I will hold him to account for that! All the best.

**Dr Nguyen-Hoan**—Thank you, Minister.

[9.57 pm]

**CHAIR**—We will move on to output 2.1, Settlement services.

**Senator ELLISON**—This is an area where, in my previous capacity as Minister for Human Services, I have come across service delivery not only on the Commonwealth's part but also by states and territories and where they mix in with each other. Has the department begun talks with the states and territories, local governments and communities to see what can be done to improve settlement support for refugees, asylum seekers and other vulnerable migrants?

**Mr Metcalfe**—The short answer is yes, there have been considerable and ongoing discussions over a long period of time on that issue. The most significant forum is the Ministerial Council on Immigration and Multicultural Affairs, which the minister chairs and which is due to meet in the middle of the year. That is supported by a senior officials group, which I chair, and we are due to have a meeting next week in Melbourne. These issues have been and will be the subject of considerable ongoing work because, as you rightly say, those services quite often involve a series of Commonwealth agencies and a series of state agencies and, indeed, local authorities and the not-for-profit sector, as well as contracted arrangements administered by the department. The work that Ms Pope and her branch do is very much focused in that web of relationships of agencies, all of whom are providing support to newly arrived refugees.

**Senator ELLISON**—In relation to the ministerial council, is it still a bit early to say what issues will be on the agenda?

**Mr Metcalfe**—Yes. In fact, one of the issues that officials will discuss next week is proposing matters that ministers may wish to consider. It is ultimately an issue for Minister Evans as to the agenda. Typically, that forum would deal with issues that relate to matters of topical interest such as skilled workers coming to Australia and to multicultural affairs issues such as the national agenda that was announced a year or two ago and which Dr Nguyen-Hoan had a major impact on. The issue of settlement of refugees is a very significant part of those discussions.

**Senator ELLISON**—What is the current status of the Refugee Resettlement Advisory Council?

**Ms Pope**—The membership of RRAC is under consideration by the parliamentary secretary and the minister at the moment.

**Senator ELLISON**—Have the positions all fallen vacant at the same time?

**Ms Pope**—Yes, all 10 positions are now vacant.

**Senator ELLISON**—That is with the parliamentary secretary, you say?

**Ms Pope**—Yes, and the minister.

**Senator ELLISON**—Is there any idea when there might be a decision in relation to those members?

**Ms Pope**—There are names currently under consideration, so I cannot say. But it will be in the near future.

**Senator ELLISON**—In relation to support for community services, there was an announcement during the election campaign that there would be a \$1 million contribution

towards building a multicultural centre in Mirrabooka in Western Australia. The announcement said:

The centre will be built on land allocated in the redevelopment of Mirrabooka and the City of Stirling ...

When will that funding be provided towards the building of the multicultural centre?

**Mr Vardos**—That matter is currently under consideration by government.

**Senator ELLISON**—When you say it is under consideration, is it a case of whether or not to go ahead with it or that it will be proceeded with but it is just a question of time?

**Mr Vardos**—I cannot give you a definitive time because it is tied up with budget considerations.

**Senator Chris Evans**—The election commitment will be honoured, but we have to work through the details and the process and consult et cetera.

**Senator ELLISON**—So the commitment will be honoured and it is in the budgetary process?

**Senator Chris Evans**—No. I am saying the commitment will be honoured. Mr Vardos is saying obviously funding issues are tied up in the budget. It is under active consideration.

**Senator ELLISON**—When I say that I mean that it will be considered as part of the budgetary processes.

**Senator Chris Evans**—Yes. I just did not want to imply that—

**Senator ELLISON**—That it is going ahead.

**Senator Chris Evans**—No, I did not want to imply that I had got it through the budget; that is all. The commitment will be honoured.

**Senator ELLISON**—On the Adult Migrant Education Service, I understand there will be traineeships introduced for migrants in relation to this and that they will be introduced at some stage. Is that right?

**Ms Pope**—Yes, that is right.

**Senator ELLISON**—When will that start and how many traineeships are envisaged being taken up?

**Ms Pope**—We are still doing the policy development work on that, but the program is due to commence in 2008-09.

**Senator ELLISON**—Okay. Any idea of how the new-style Adult Migrant English Program will be delivered?

**Ms Pope**—There are a couple of issues running together here which I might clarify. We have commenced a review of the AMEP as a whole in relation to and in preparation for a major tender process which will take place around the AMEP after the review, which we will complete in about August this year. That will inform future expenditure under the item that you are looking at there. Plans for the expenditure for 2008-09 are under development at the moment.



**Senator ELLISON**—So will there be a tender process after the return of the review in August?

**Ms Pope**—Yes, and that looks at the very broad issues around the AMEP. It is a thoroughgoing review of content delivery, financial modelling and so on.

**Senator ELLISON**—Will the program be placing more emphasis on vocational English in order to help people get a job?

**Ms Pope**—That is the expectation and will certainly be an aspect that the review will be focusing on, both within the department and in consultations.

**Senator ELLISON**—What will the relationship be between this program and Job Network? I think it was Tony Burke, the previous shadow minister, who said that he envisaged there would be a strong relationship between them, which is understandable. Any comment on that?

**Ms Pope**—That is also an aspect of the review that will be looked at.

**Senator ELLISON**—When will the new Employment Pathways program commence?

**Ms Pope**—It will be piloted in 2008-09.

**Senator ELLISON**—Can you tell the committee what form that pilot will take?

**Ms Pope**—There are two elements to the announcement in relation to this, and I ought to get those straight. One is to do with the traineeships, and that will be piloted next year. We are looking at options with the parliamentary secretary as to how the pathways program will be implemented.

**Senator ELLISON**—That is all on 2.1 from me.

[10.05 pm]

**CHAIR**—That is 2.1 finished and we have done 2.2. We will move to 2.3, which is Australian citizenship.

**Senator ALLISON**—Are there figures available on the decline in the number of people applying for citizenship since October 2007?

**Mr Vardos**—Yes, we do have statistics on a month-by-month basis. We can share that with you now or we can provide a table with the breakdown on notice.

**Senator ALLISON**—Do you have a percentage decline or—I would like both, that is what I am saying.

**Mr Vardos**—At the moment we have the raw figures on a month-by-month basis, starting from October through to the end of January.

**Senator ALLISON**—Is it possible for that to be tabled now?

**Senator Chris Evans**—Why don't we give her the month-by-month figures for last year and then we will table the whole table.

**Ms Forster**—In September 2007, which was the month before significant change to legislation came into effect with the citizenship test, there were 21,189 applications for

citizenship. I should add that that number of citizenship applications was significantly higher than any month previously.

**Senator ALLISON**—We probably need July figures or some time earlier.

**Ms Forster**—Yes. July was 11,352; August, 13,939; September, 21,189, which was the bumper month; October, 2,194; November, 3,447; December, 3,264; and in January we are seeing an increase again, with 4,207. In addition to those figures, I should add that there are approximately 16½ thousand people currently booked in to do a citizenship test in the next couple of months and we would expect that to translate into a significant number of applications lodged in the coming months as well.

**Senator ALLISON**—Is it the case that the advertising campaign for the citizenship test has already ceased? When did it cease?

**Mr Vardos**—The citizenship promotion campaign ceased at the beginning of the caretaker period and has not recommenced.

**Senator ALLISON**—I see, so—

**Mr Vardos**—The television advertising campaign that you would have seen promoting the new citizenship test ceased at the beginning of the caretaker period—

**Senator ALLISON**—So that is October.

**Mr Vardos**—and it has not recommenced.

**Senator ALLISON**—How many people have failed the test since 1 October?

**Mr Vardos**—We can point you to the department's website, which is going to have a monthly update on figures, but in raw terms I will give you percentages while Ms Forster is looking for numbers. Overall there has been a pass rate of 92.3 per cent since 1 October—that is on first and subsequent sittings. So a total overall pass rate of 92.3 per cent. Ms Forster can give you other numbers depending on what you are looking for.

**Senator Chris Evans**—Perhaps I could intervene, Chair, and say to Senator Allison that one of the things I was very keen to do was facilitate proper public debate about these issues and have total transparency. So, when the department provided some figures to me on the outcome of the citizenship test and the statistical analysis, I asked that that information be published. That was released in January 2008, at the start of this year, for the first three months we have experienced, and that will be continually updated on the department's website. Those figures are all publicly available. It is quite a detailed analysis of country of origin, particular visa groups and their success rates et cetera, and that is all designed to inform the debate. That is available, and we could certainly table a copy of that, couldn't we, Mr Vardos?

**Mr Vardos**—Yes, Minister.

**Senator ALLISON**—How many of the 7.7 per cent who failed the test were English speakers?

**Mr Vardos**—The statistics we collect are not on the basis of whether they are English speakers or not. They identify a country of origin, country of birth analysis. You can derive figures from country of birth, but it is not definitive as to how many people are English

speakers. But we can tell you that clients born in 172 countries have sat the test, and the top 10 countries are the United Kingdom, the People's Republic of China including Hong Kong and Macau, Iraq, India, South Africa, New Zealand, Afghanistan, the Philippines, the Sudan and Sri Lanka.

**Senator ALLISON**—Who is at the bottom—which country?

**Senator Chris Evans**—That is not based on the pass rate; that is based on numbers sitting the test, I think, isn't it?

**Ms Forster**—Yes. That is right.

**Mr Vardos**—Sorry, yes—top 10 countries of origin of people sitting the test.

**Senator ALLISON**—What is the country of origin of those that failed? That is really what I want to know.

**Ms Forster**—As part of the snapshot which is publicly available on the website, we have the pass and fail numbers for the people from those top 10 countries. The others are obviously aggregated together as 'other countries'. So we have provided the top 10. Would you like me to read those out now or should we table this snapshot at this point in time? It is also available on our website.

**Senator ALLISON**—Okay. Are all the other countries not English-speaking countries—those grouped together as 'other countries'?

**Ms Forster**—They are not divided in that way. What we have done is list the top 10 countries—

**Senator ALLISON**—Yes, I understand that.

**Ms Forster**—And then the others, which are the other 162 countries that people have come from, are listed as 'other countries'.

**Mr Metcalfe**—Just to try and help you, I do not think we have the information available to you tonight but I think on notice we would be able to produce a response to your question, which is: which country of origin has produced the highest failure rate? I think we would have reporting available on that which we could provide to you on notice.

**Senator ALLISON**—Basically, I want to know whether my theory is correct, that people who have the least English are the ones who are most likely to fail. That is what I am trying to get at.

**Senator Chris Evans**—I have heard Mr Vardos before sum up these statistics pretty well, so maybe, Mr Vardos, if you gave Senator Allison your two-minute analysis of the test results—sorry, I didn't mean to override the response. I just know I have heard Mr Vardos do the two-minute summary. I have put the weights on him now, but I am sure he will be able to do that.

**Mr Vardos**—We can break it up into migrant streams. Skilled stream outcomes—and you can assume that in the skilled stream there are higher levels of English, because that is part of the process of coming in as a skilled migrant—are that there is a 97 per cent pass rate on first or subsequent attempts. In the family stream, the pass rate is 90 per cent. Now, there would be a high level of English capability within that stream as well but also many who have poor

English. In the humanitarian cohort, you have an 80 per cent pass rate on first or subsequent attempts. You can derive from that that people with low English-speaking skills are in the group that has the highest failure rate. But, as Mr Metcalfe has said, we will try and produce a table with the whole 172 countries if we can collect that data.

**Senator Chris Evans**—One of the concerns I have had, and one of the reasons why I thought the review was useful, is that there is some evidence that perhaps that numbers coming forward to sit the test might be impacted by the introduction of the test. And there is some evidence and certainly some concern expressed by some communities that their members are deterred from sitting the test. So you have not only got the pass rate of who sits but who is coming, and that is reflected in the numbers. I think there was a peak or a burst of people getting in before the test had to be sat, and naturally you would see some fall-off after that, if you like, because it had sucked some forward into the process. But there is a serious concern about whether or not some people are being deterred. In my discussions with a couple of community groups, people made it clear that some members of the community were fearful, in part because there was a view that if you failed the test you may not be allowed to stay. That is purely an educative process, but a couple of people put to me: ‘If you go and take the test and you fail, then surely there is a consequence of failure.’ Those are the sorts of things that need to be dispelled over time.

One of the issues that I think is important is to ensure that we are not stopping people sitting the test and taking that pathway to citizenship, and to see if we need to do more in educating the communities. We need to analyse if there are problems now. We will get a bit more experience. The review I have announced is designed in part to look at that first six months of experience. Mr Vardos might want to comment, but there is some evidence that perhaps those who are fearful of the test are not coming forward.

**Senator ALLISON**—There is a bit more than some evidence. It is only about 30 per cent. January is the best figure, where it has gone up to 4,207. If you compare that with what looks to be an average of about 12,000 a month, it is considerably less. It is only one-third of the average.

**Senator Chris Evans**—You mean in total?

**Senator ALLISON**—Yes. Is that right, Ms Forster?

**Ms Forster**—If you only look at the year before, which was a bumper year because of other things that had taken place in the 2006-07 program year as well. Clearly there has been a decline in the number of applications since October.

**Senator ALLISON**—In what sense was it bumper, compared with now?

**Ms Forster**—The 2006-07 financial year, in terms of the number of applications that were received, was a significant year for us. We received approximately 160,000 applications received, whereas in previous years it was around 120,000, for 2005-06, and 100,000 for the year before that.

**Senator ALLISON**—What do you put that down to?

**Ms Forster**—In 2006-07 there were significant issues, including the lead-up to the new act for July 2007. I think a lot of people were trying to apply in that lead-up. Plus we had

decisions and announcements regarding policy decisions, and discussion papers around citizenship were released. That seemed to be a significant year for applications received.

**Senator ALLISON**—The figures you have given me are for 2007-08, not 2006-07, so presumably it had already died down somewhat by the time the test came along, apart from the 21,000 in September. But I will not quibble about the figures. They are obviously still very well down, even if you compare them with 120,000 a year. The figure for January is still low, isn't it?

**Mr Vardos**—Yes. I think there will be an overall year-on-year decline, but because of these distortions by the huge spike before the test and the anticipation after the test, you need full-year statistics to make a reasonable comparison.

**Senator ALLISON**—I understand it is difficult. How many people have sat the test twice or more?

**Mr Vardos**—I think what we can say to you is that people in the skills stream have sat the test an average of 1.1 times. If you divide the number of tests done by the number of people from that stream, the skills stream shows an average of 1.1 tests per client; the family stream, 1.2 tests per client; and the humanitarian stream, 1.5 tests per client.

**Senator ALLISON**—So 'not often' is the answer. Will the government also review the *Becoming an Australian citizen* booklet? It has attracted quite a lot of criticism one way or the other. Are the contents of it, on which the questions are based—not all of which we know—going to be the subject of your review.

**Senator CHRIS EVANS**—Yes. It is not widely understood, but the questions are all drawn from the book. Therefore, it is the content of the book that is the key issue. There are issues about whether the questions are phrased properly et cetera, but the questions seek to draw out whether people understand what is in the book, which is the source document. As you are aware, I have announced that we will be conducting a review which will assess the introduction of the citizenship test and the issues that surround it. One of the things it will do is look at the first six months of experience of the test and consult about that.

One of the issues that has already been identified is that of the content of the book. But more importantly from my point of view, it has been put to me that the book was supposed to be written in a language that is described as 'basic English', which is a term that is understood by those who work in these circles. But when it was finally completed, the standard of English used was described as 'native English speaker' standard. So from the original intention of basic-level English it had risen, when it was drafted, to a native English speaker language level. One of the issues is: is the standard of English required to read and understand and comprehend the book too high? The government's original intention does not seem to have been met with the publication of that book.

That is just one of the issues that surround the test. It is important that we canvass those issues. The original test was brought in within a fairly short time frame without much consultation outside of the then government. People have issues they want to raise—considerations and debate—and the review will allow those things to be examined and tested. But one of my concerns is to ensure that we have not set the English language requirement of the book at such a level as to act as a barrier to people. My basic proposition, which was not

widely heard in the publicity around the announcement, is that I do not care if people fail the test, if it is through lack of effort. I do care if they have been prevented from passing the test because of barriers put in their way that are artificial or not worthy. So the pass mark of 90, 80 or 60 does not worry me if it reflects the effort of those sitting the test. But it does worry me if people are barred from the pathway to citizenship because of an artificial barrier—that is, the English language requirement being set at too high a level. That is the sort of public policy issue that I hope the review will examine and provide feedback on.

**Senator ALLISON**—As a former teacher, Minister, I wonder how you measure effort, if it is not through the result of the test.

**Senator Chris Evans**—That is why you need to test the other things. I guess I am making the point that some people try to say, ‘Oh well, you’re upset because people fail the test.’ That is not right at all. There will be a percentage of people who fail the test however one constructs it. The key issue is that this is the pathway to citizenship. The public policy issue for us is that there has been bipartisan support for people who are permanent residents in this country to take out citizenship, and we want to continue that. I think the citizenship test can be an important part of that journey for people becoming citizens, but I want to ensure that there are not artificial or unfair barriers put in the way of people getting there. I just wanted to make the point that, if it is a question of effort, I have no sympathy. But if it is a question of an unfair or artificial barrier, then that ought to be addressed as a matter of public policy.

**Senator ALLISON**—So you think people should be able to sit the test and, if they put the effort in, it should not matter if they pass or fail?

**Senator Chris Evans**—What I am saying to you is that if they put the effort in they should be able to pass. That is the situation I want to get to. The public policy is that we want to use this as a useful pathway for people to become citizens—a constructive part of that pathway. My point is that if there are artificial barriers—if, for instance, we have set the English language requirement too high or if the questions are phrased in a manner which is not readily understood—then those are the things that in a public policy sense we ought to fix. The point I am making to you is that if someone turns up to the test with the English language skills and the opportunity to pass the test but has not bothered to read the book then, quite frankly, I have no sympathy.

**Senator ALLISON**—What do you think the citizenship test should measure?

**Senator Chris Evans**—That is part of the issue we need to examine. It seems to me that it ought to be focused on what understanding and what knowledge people need in order to understand the commitment of citizenship and to allow them to take up the full rights and responsibilities of citizenship. I think some of the measures in the current book and test do that; I think there are other things that I am not so sure are at the core of what the test should include.

**Senator ALLISON**—Would knowing the number of Nobel laureates in this country be in that category?

**Senator Chris Evans**—My personal answer would be no because I probably would not get it right. But the point I want to make, and the point I made at the time I released the document, was that I do not intend rewriting the test. When I say that, I personally do not

intend rewriting the test. The original book and test seem to have been rewritten at least in part in the former minister's office. I do not see that as a role for the minister. I will not be doing that. If there are recommendations that come from the review that suggest we make changes, then we will employ somebody professionally to implement those policy decision changes if they are adopted by government. I think the current test has some problems that have been brought about by how it was written and by whom it was written.

**Mr Vardos**—I can provide some supplementary information because it goes to the issue of the resource book. I would like to point out that we are in the process—and it may well have been finalised—of translating the resource book in its current form into 29 community languages that are spoken in this country. That was one of the last decisions made by the previous minister. I think we have now translated all 29 as an interim measure.

**Senator ALLISON**—Does that mean that the test will also be translated into 29 languages?

**Mr Vardos**—No, the test remains in English but they do have the resource book in English and one of 29 languages.

**Senator ALLISON**—Was there any difference in the questions asked in any of the months that you describe? You have given the overall figures for the fail rate. Did you alter the questions at all during that process or were they the same question set throughout that period?

**Mr Vardos**—The same bank of 102 questions that were put in from day one are there today. There has been no alteration to the questions once they were loaded into the system. Each time you log on, the system randomly generates the 20 questions from that bank of 102.

**Senator ALLISON**—Are you able to look at the questions and see which ones are routinely not answered correctly?

**Mr Vardos**—We do have data on those questions that are producing irregular results or results that come to attention. I think we may have retired one question, or was that in advance?

**Ms Forster**—In advance of the questions being put in, a small number of questions—I think it was two or three—were sent back to the company that validated and tested the questions on sample clients for revalidation. That was as a result of some of the results that were being picked up. The questions were reworded and uploaded into the bank prior to the test commencing.

**Senator ALLISON**—How did the question on whether Australia is a parliamentary democracy or a Constitutional monarchy go? Is that something that confused people?

**Mr Vardos**—Off the top of our heads we could not relate to you what the results are in relation to that question. Indeed, the question needs to be put: is it in the sample test, which is at the back of the book, or is it one of the 102 questions in the question bank? If it is in the back of the resource book—

**Ms Forster**—It is on the website as a practice test.

**Senator Chris Evans**—Senator Allison, the previous government took the decision, when introducing the test, not to release the questions publicly. So the questions that are available

on the website et cetera are sample questions and the actual questions themselves have not been publicly released. But, as I say, they are all drawn from the contents of the book.

**Senator ALLISON**—Was that one of the sample questions that was made public at the time?

**Ms Forster**—I am sorry, I cannot recall. There were five practice questions that were, and still are, on the website for people to be able to go in and see what the questions may look like and how to manipulate the computer et cetera. I cannot recall, I am sorry.

**Senator ALLISON**—I know it was a question, so it must have been in that category, which means it would not be in the test questions put to people?

**Ms Forster**—If it is in the practice sample questions on the website, no, it would not be in the bank of questions.

**Senator ALLISON**—Probably just as well.

**Senator Chris Evans**—There may be a very similar one that goes to the same issue, Senator Allison. The actual sample questions are not in the bank of questions that are asked. But I think it is fair to assume that the sort of issue that the question goes to is contained in the bank of questions.

**Senator ALLISON**—The book says:

Australians have a responsibility to defend the nation should the need arise.

Minister, you might not agree that this is the case, but could I ask whether it was thought at the time that this was written to be a legal obligation or a moral obligation? What kind of obligation is it?

**Mr Vardos**—It is a question of linkages. As you are probably aware, the citizenship pledge starts:

From this time forward,

I pledge my loyalty to Australia and its people,

Whose democratic beliefs I share,

Whose rights and liberties I respect,

And whose laws I will uphold and obey.

Although the issue of taking arms to defend the country on being called upon to do so is not written in the Citizenship Act; it is in the Defence Act 1903. So in the context of upholding and obeying Australia's laws, there is a connection. I guess I should also say that that particular concept of a call to arms to defend the country is not a 21st century construct; I am told that it has been around since 1795 when *La Marseillaise* was adopted as France's national anthem, which in itself is a call to arms to defend France from the Prussians.

**Senator ALLISON**—I would have thought, precisely, Mr Vardos, that it is not a 21st century concept at all.

**Mr Vardos**—But it is a concept that has been around for over 200 years.

**Senator ALLISON**—And we expect prospective citizens to know the act on which it is based goes back to 1903—seriously?



**Mr Vardos**—I do not want to have a debate with you, but the point is that it is a responsibility of citizenship to defend your country if called upon to do so, with certain exemptions relating to health, conscientious objection and that sort of thing. But as a concept, it is valid.

**Mr Hughes**—If I could add to that, in general information material about Australian citizenship, I would say that, going back at least 20 years, that has been listed as one of the responsibilities and privileges of citizenship. So I do not think this is the first time that it has ever been presented as something that goes with Australian citizenship.

**Senator ALLISON**—Minister, is that going to go out?

**Senator Chris Evans**—You obviously did not listen to my earlier response. I am not going to rewrite the book. That is what the previous government did. They commissioned some historians to contribute and then they fiddled with it and adapted it to suit themselves. I think that is a wrong process. It lacks transparency and I think it is not appropriate. What I intend to do is have a review of the operation of the citizenship test and the issues that surround it, have community consultations and accept recommendations from that review group, which will be considered by government. But I would think that at the end of that process, if there are recommendations accepted that go to maybe having some adjustment to content, that would be professionally commissioned. I do not see it as the role of the minister to rewrite the test or to make judgements about those issues. I think by having an open, public conversation about these issues we will end up with a better result. That is why I am putting that process in place. I think in the rush to get the test in place there was inadequate consultation and the people did not have a chance to have their say about some of these issues. One thing I have learned about the citizenship test is that everyone has an opinion and it is always a strong one.

**Senator ALLISON**—Minister, will you road test the new test on Australian citizens to judge whether you are testing new citizens on the same standards as we would existing citizens? Without cramming the book, I might say.

**Senator Chris Evans**—As I have made clear, there will be a review, and it will deal with all those issues. There will be quite wide terms of reference. I have not finalised those, but I am not seeking to limit the issues on which the review team can consult. I just think what you are suggesting is three or four steps down the road. It implies that there has definitely been a rewriting of the book, et cetera. This will be an open, consultative process, and the report of the review group will be public and then government will make decisions. I think we need to go through all those steps before we get to the conclusions.

**Senator ALLISON**—What has been the cost of developing and administering the test so far?

**Mr Vardos**—We will have a budget breakdown somewhere. My recollection is that the original budget allocation over a four-year period was in the order of \$120 million. There will have been revisions to that.

**Senator ALLISON**—Up or down?

**Mr Vardos**—Initially up and then some down so it is, overall, up. I cannot give you a definitive figure—unless my colleague can.

**Ms Forster**—The original budget figure for the whole proposal included the citizenship test component of a number of parts of the new policy proposal. The overall component for the citizenship test for five years from 2006-07 to 2010-11 was \$111.5 million, rounded.

**Senator ALLISON**—So what is the \$120 million you mentioned earlier, Mr Vardos?

**Ms Forster**—The overall amount also had an additional figure for the *Beginning a Life in Australia* booklet, which is part of a settlement package associated with the Australian values statement. The original budget that was handed down for those components was packaged together and the overall amount was \$123.6 million.

**Senator ALLISON**—What is the budget for the changes?

**Mr Vardos**—For the review that the minister has commissioned?

**Senator ALLISON**—Yes.

**Mr Vardos**—I cannot give you a figure on that at the moment because at this point we have not actually mapped out all the component parts and costed them, but I think it would be fair to say that it would need to be absorbed within the budget allocation that I have for the current financial year for administering citizenship activities as a whole.

**Senator ALLISON**—So it will fit within the \$11.5 million over five years.

**Mr Vardos**—Yes, the budget allocation that we were given originally over the five-year period to administer the citizenship test and various activities. Obviously, I have an allocation for the current financial year, and we will be absorbing the cost of the review within that current financial year allocation. We will just have to shuffle the chess pieces.

**Senator ALLISON**—It is going to be a substantially smaller exercise than the original.

**Senator Chris Evans**—No, Senator, I think you are confusing different issues.

**Senator ALLISON**—I am comparing \$120 million with \$11.5 million.

**Senator Chris Evans**—But that is about the administration of the test—that is hiring venues, all the infrastructure, staff et cetera. What I am talking about is a review of the tests and a public consultation. I can assure you that it will be a lot less than \$120 million. I am pretty sure I can assure you it is going to be less than a million. If it is not less than a million, I do not think I will get approval. We are talking about a review by a small group of people to consult and seek views on the issues and report to government. The figures Mr Vardos is talking about are about the whole machinery of the test. It is a big exercise. As you know, there are issues in places like north-west Western Australia and other regional areas about getting access to sit the test. This is a big logistical exercise and the costs that Mr Vardos refer to encompass all of that. The review is, by comparison, a small and inexpensive initiative.

**Senator JOYCE**—Just on that issue—

**CHAIR**—Senator Joyce, sorry. Senator Allison is—

**Senator JOYCE**—I just want to—

**CHAIR**—No, Senator Joyce. Senator Allison, have you finished?

**Senator ALLISON**—Yes.

**CHAIR**—All right. Senator Joyce, or Senator Ellison. I think you need to decide between the two of you.

**Senator ELLISON**—Madam Chair, we have spent some time on this. We have been trying to get through the program. We have got 20 minutes left. We can either seek a spillover to Friday or go to 11.30. This is an area where I do have some questions, and I would be grateful if the committee would give me the opportunity to ask them.

**Senator Chris Evans**—Senator Ellison, can I just make it clear that, in accordance with previous government practice, we will not be going beyond 11 o'clock. You have never allowed that while in government.

**Senator ELLISON**—I did. I can tell you I did.

**Senator Chris Evans**—You have had a very good go today. You can sort it out among the committee, but the officers have been advised that this ends at 11 o'clock, and I will be insisting that that occurs.

**Senator ELLISON**—In that case—

**CHAIR**—Senator Ellison, we will not be going beyond 11 o'clock. We had a committee meeting last Thursday, where the committee decided on the program, the start and finish times and the breaks. So we will be finishing at 11 o'clock. There will be no spillover day because I do not have enough members of the committee here to consult.

**Senator JOYCE**—Madam Chair, can I just ask one—

**Senator ELLISON**—Senator Trood is here.

**CHAIR**—We will be finishing at 11 o'clock and I will ask you to put your questions on notice

**Senator Chris Evans**—Why don't we just get on with it, use the remaining time and you can cut your cloth accordingly.

**Senator ELLISON**—Mr Metcalfe, did the former Prime Minister write any of these questions in the test?

**Mr Metcalfe**—Not to my knowledge.

**Senator ELLISON**—Did the former minister for immigration or anyone in the government write the questions in the test?

**Mr Metcalfe**—Not to my knowledge. The questions were written and tested by the department. They were written by a company known as the Australian Council for Educational Research.

**Senator ELLISON**—In the *Sydney Morning Herald*, on 29 January this year, there was an article which said that there was a whole set that John Howard wrote. Then you, Minister, in an interview with Samantha Hawley said that you believed that perhaps there has been some political interference in the setting of the test and the questions. Were you aware at that stage that the former government had not been involved in the writing of these questions?

**Senator Chris Evans**—You have not asked the key question: 'Was the document written in the department, or in the minister's office?'

**Senator ELLISON**—The booklet is another issue. The test is what I am talking about.

**Senator Chris Evans**—All the test questions flow from the book. Ask the other question and then we will have the debate.

**Senator ELLISON**—I am asking you: when you gave that interview to Samantha Hawley, were you aware that the test questions were written not by the former government but by an independent agency?

**Senator Chris Evans**—I stand to be corrected—I will check my records—but I do not remember giving an interview to Samantha Hawley.

**Senator ELLISON**—I refer you to 28—

**Senator Chris Evans**—She may have been at the press conference I held. For clarity of the record I do not recall—but I will check my records. The point I am making is that it is a question of—

**Senator ELLISON**—It was on 29 January to Samantha Hawley, ABC Radio.

**Senator Chris Evans**—I thought you were talking about a newspaper report.

**Senator ELLISON**—No, it was an interview with Samantha Hawley on ABC radio, on 29 January. That was the same day that the *Sydney Morning Herald* stated that John Howard had set the questions and, in your interview with that radio journalist, you said ‘perhaps there’s been some political interference in the setting of the test and its questions’.

**Senator Chris Evans**—I maintain there was political interference in the design of the booklets and the design of the process and the questions, Senator Ellison. In the article by John Hirst the other day, which received some publicity, he confirmed that his work was rewritten inside the minister’s office.

**Senator ELLISON**—Minister, I again point to the fact that the test questions were written by an independent agency, as evidenced today by the department; they were not written by the former government or the former minister. The booklet was a different story—

**Senator Chris Evans**—Ask the other relevant questions. Ask them whether or not all the questions that were provided were approved or whether some were removed. Ask that question, Senator Ellison.

**Senator ELLISON**—Can I ask—

**Senator Chris Evans**—Seriously, for completeness, you ask who wrote the book. You ask whether the government chose which questions were to go in or not. You ask those questions!

**Senator ELLISON**—There is no dispute about the book. It is the test that we are talking about and what you are talking about.

**Senator Chris Evans**—You concede that the minister wrote the book, do you?

**Senator ELLISON**—The government had input into the writing of the book—of course it did.

**Senator Chris Evans**—So you concede that it was rewritten inside the minister’s and the Prime Minister’s office.

**Senator ELLISON**—I can tell you that the question of the test—

**Senator Chris Evans**—I am glad that you have now committed to that and it is now on the record, Senator Ellison. It is the first time that a government member, I think, has conceded that the government rewrote the booklet.

**Senator ELLISON**—Where you misled the community was when you said:

... perhaps there's been some political interference in the setting of the test and its questions.

That is a very different issue—

**Senator Chris Evans**—I still maintain that, Senator Ellison. Ask the question: did the government refuse certain questions to be included in the test? Ask that question of the officers.

**Senator ELLISON**—It is obvious: you were caught in a spot and you got it wrong.

**Senator Chris Evans**—I am very happy to defend the assertion—

**Senator ELLISON**—I ask you about the release of statistics on 2 January when there was an article which said that 20 per cent of the people who sat the test had failed. It was subsequently pointed out in a release by me that what that was measuring was the number of tests not the number of people, and that was subsequently corrected. Can the department shed any light on how that statistic was released? How did it get into the ether—the fact that on 2 January statistics appeared in media across Australia suggesting that 20 per cent of people who sat the test had failed? In fact today we have heard that it is 92.3 per cent. How did that come about and was that subsequently corrected so that there was a clarification made between the number of tests that were sat and the number of people who passed, because some people sat the test more than once? Was there any clarification delivered on that?

**Senator Chris Evans**—I do not have any detail on that argument you are making, Senator Ellison. I do remember seeing the argument you are making now in a copy I saw of your release. I did not understand it at the time and I am not sure that I can help you with an answer at the moment. I can take it on notice. But you can be sure that the snapshot report which was released publicly has a fairly full description of the statistics that related to the test. It is not every bit of information or every breakdown but it is very comprehensive. That is on the public record. There is a difference between the number who sat the test the first time and the second time, but as to the question you ask about the confusion, I am not aware of the detail—

**Senator ELLISON**—It was the interpretation of that report when it was released that I am referring to, but you might like to take that on notice and on reflection.

**Senator Chris Evans**—One of the officers wants to answer. I am not really grasping the point—

**Ms Forster**—To clarify, the exact question you are asking is in relation to a statistic that was released in early January—is that correct?

**Senator ELLISON**—On 2 January statistics appeared in media across Australia suggesting that 20 per cent of people who sat the citizenship test had failed. What was released were the number of tests, and of course some of them were sat a second time. When

you extrapolate the failure rate it looked like 20 per cent but, when you look at the people who passed with a second go, it was much higher—93 per cent.

**Senator Chris Evans**—Doesn't that mean that 20 per cent did fail the first test?

**Senator ELLISON**—It means that 93.2 per cent, I think—or over 90 per cent—passed, albeit that some of them passed the second attempt. That was the point that was made at the time.

**Senator Chris Evans**—All I can say, Senator Ellison, is that full figures have been released publicly by me. They are available on the website and have been distributed to people so that they can debate them. I do not really understand the point, but it is all there. It is all on the public record; it is all transparent. I will update it and the department and I will release updated figures as the department provide them.

**Senator ELLISON**—You can take that on notice and clarify the position if it needs to be clarified—and I think it does. In relation to the promotion of citizenship, will the government be establishing a research office into the question of citizenship and multicultural affairs that is independent of government?

**Senator Chris Evans**—There has been no consideration given to that. It is not an issue currently before me.

**Senator ELLISON**—In relation to the people who fail the citizenship test, on their first and any subsequent test, can you tell us, Mr Metcalfe, how many failed because they incorrectly answered a rights and responsibilities question—or 'values' question, as they have been termed in the media?

**Mr Metcalfe**—We will have to derive that information. We can get it, but we do not have it with us at the moment.

**Senator ELLISON**—You can take that on notice. How will the review of the citizenship test be structured?

**Senator Chris Evans**—That decision is before government. I will make an announcement about that in due course. My intention is to make it a small group who will consult and hear from people about the relevant issues. I will give them a fairly wide brief.

**Senator JOYCE**—Will those tests be done in regional towns instead of them having to travel to Gladstone—

**Senator Chris Evans**—I have indicated earlier that that is one of my concerns. I think the department can give you a bit of a response. That is a live issue in Western Australia as well—about access to tests and the difficulties for people in regional Australia. I am sure it was an issue you took up with the previous government when they introduced the test. I am happy to take it up as well for you.

**Senator ELLISON**—Will the government be reviewing the values statement that temporary and permanent migrants are required to sign?

**Senator Chris Evans**—No.

**Senator ELLISON**—The former shadow minister for immigration—

**Senator Chris Evans**—There has been no change to that.

**Senator ELLISON**—What work is the Australian Population, Immigration and Multicultural Research Program currently undertaking?

**Mr Metcalfe**—I will have to take that on notice.

**Senator Chris Evans**—That is not the one that the previous government abolished?

**Mr Metcalfe**—The previous government in 1996 abolished the Bureau of Immigration, Multicultural and Population Research. I am not familiar personally with the program that Senator Ellison mentioned but that does not mean it does not exist.

**Senator ELLISON**—Could you take that on notice?

**Mr Metcalfe**—I will take that on notice.

**Senator ELLISON**—Senator Evans, the booklet you mentioned is being reviewed and you have said in previous statements—

**Senator Chris Evans**—That is not right, Senator Ellison.

**Senator ELLISON**—I understood from Senator Allison's question that—

**Senator Chris Evans**—No. I said that the content of the book would be one of the issues that the review could take up. I am not reviewing the book.

**Senator ELLISON**—Do you know whether it will be part of the review?

**Senator Chris Evans**—It will be part of the review. It is not currently being reviewed. The way you phrased it sounded like I was reviewing the book or it was being reviewed currently. What I am saying is that the issue of the content and the appropriateness of the book will be in the terms of reference for the review group.

**Senator ELLISON**—In the meantime, the citizenship test will remain—will it not?

**Senator Chris Evans**—Certainly. The Labor government is committed to the retention of the citizenship test. This is about testing the issues surrounding it.

**Senator ELLISON**—In one of your previous statements you said that you are not sure that the right questions were being asked. You mentioned today that you have a concern about the standard of English being used. Is it also a fact that you think the wrong questions are being asked?

**Senator Chris Evans**—Coming back to the central point, the questions reflect the content of the book. They are very much driven by the content of the book and there has been concern expressed—and I share that concern—that some of the content does not necessarily have direct relevance to the question of citizenship and participation in our society. But that will be part of the review. That is a personal opinion I have, but the review will hear from anyone who wants to talk to them about those issues. As you know, there has been a range of publicity where people have asked current Australian citizens questions based on the book and there has been a high failure rate among those who did not go back and study the book.

But I think the problem with the previous process is that it was done behind closed doors inside government. What we are saying is that there will be a review, it will be transparent, it will be open and it will be up for public debate. I think something as important

as a citizenship test ought to be something which the Australian community has ownership of and has had the chance to debate and discuss. This process will allow that to happen.

**Senator ELLISON**—Would you agree that the test should establish whether a person who is applying for citizenship is aware of Australia's icons, traditions and values?

**Senator Chris Evans**—Certainly values and traditions. I do not know what we mean by icons.

**Senator ELLISON**—I suppose the coat of arms. There are a number of things you might regard as iconic in Australia. Perhaps—

**CHAIR**—Beer!

**Senator ELLISON**—Senator Crossin says 'beer'! But I think that in the booklet there are a number of icons that are mentioned. I just use the coat of arms as an example—or perhaps the national flower. The flag is iconic. Those are the sorts of things.

**CHAIR**—Good tucker, the coat of arms!

**Senator Chris Evans**—Obviously some of those national symbols—as I would call them rather than 'icons'—are an important part of understanding Australian society, so that seems to be relevant. But I make the point again that I do not intend to rewrite the book. The government ministers will not be rewriting the book. We will have the discussion, we will have the debate and then we will look at what, if any, things are necessary in terms of finetuning the test. The clear policy position of this government is that the test will remain. We think it can be a useful part of the pathway to citizenship, but we want to ensure that people are not deterred from citizenship and that the test process is an empowering and positive one. Some of the feedback from those who have passed the test is that it has been a positive experience for them. That is good. I do want to make sure that, for instance, we are not preventing some people from applying. If there are issues about that we need to tackle those issues. But that is all part of the debate, and that is all part of what the review will pick up.

**Senator ELLISON**—When is the review due to report?

**Senator Chris Evans**—We have not finalised the details. I told you I would make that public when the government has finalised that, but it is planned for the review to be in process when it has available to it the six months experience. That comes up in April. As part of the review's work it will have a look at the six-month snapshot or the analysis of the figures—who has been sitting the test, who has not, who has been passing, who is failing, what particular questions are of concern, if there are questions of concern, English language issues and availability of testing in regional areas. I intend to give them a fairly broad remit, but I have not finalised the terms of reference. I think it is fair to say the remit will allow people to raise any of the issues they have in relation to the test process.

**Senator ELLISON**—You announced a review on 2 January—it was reported in the paper—and on 29 January. I take it that is the one review you are talking about—you are not talking about two different reviews.

**Senator Chris Evans**—No. I am not sure of the reports you refer to. I think what I indicated on 2 January—and I will check, so I will be happy to correct the record if it is not



right—is that, in accordance with the policy of the previous government, your government, who had also said they would review the test, I would be reviewing the test. When I made the formal statement towards the end of January—I think you quoted the date—that was, if you like, the formal announcement of how that would be handled. But the actual review group, terms of reference et cetera will be announced shortly to allow them to work off the six-month figures as part of the statistical base for their deliberations.

**Senator ELLISON**—I will put other questions on notice.

**Mr Metcalfe**—Chair, just before the committee closes its consideration can I very briefly add to an answer that was provided by Ms Pope earlier.

**CHAIR**—Sure.

**Mr Metcalfe**—In relation to the discussion around the implementation of the additional election commitment funding for the AMEP and employment pathways, I think it is important that we indicate that that is subject to government consideration and budget consideration, and doubtless it will be the subject of announcements in due course.

**CHAIR**—Thank you. It being 11 o'clock, I want to thank all of the officers from the Department of Immigration and Citizenship for their assistance; you, Minister Evans, for your first appearance at estimates; Hansard; and the secretariat.

**Senator Chris Evans**—I have appeared at estimates before, but not in this capacity!

**CHAIR**—That is what I meant—in your capacity as minister, of course.

**Senator NETTLE**—Can I just say something. Earlier, Mr Metcalfe, you said that Ms O'Connell would be able to give me a briefing on Mr E. I just want to check before we close up that that is still okay and we can organise that separately.

**Mr Metcalfe**—Yes. In fact, she came looking for you but you were not here, unfortunately. But, with the minister's agreement, I will ask Ms O'Connell to call your office tomorrow and make a time to have a conversation with you.

**Committee adjourned at 11.01 pm**