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SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

THURSDAY, 19 FEBRUARY 2004

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SENATE
EMPLOYMENT, WORKPLACE RELATIONS,
AND EDUCATION LEGISLATION COMMITTEE

Thursday, 19 February 2004

Members: Senator Tierney (*Chair*), Senator George Campbell (*Deputy Chair*), Senators Barnett, Carr, Johnston and Stott Despoja

Senators in attendance: Senator Tierney (*Chair*), Senator George Campbell (*Deputy Chair*), Senators Barnett, Johnston, Marshall, Webber and Wong

Committee met at 9.03 a.m.

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

In Attendance

Senator Abetz, Special Minister of State

Department of Employment and Workplace Relations

Whole of Portfolio

Dr Peter Boxall, Secretary

Mr Bob Correll, Deputy Secretary, Employment

Mr John Lloyd, Deputy Secretary, Workplace Relations

Ms Malisa Golightly, Chief Financial Officer, Financial Management Group

Mr Craig Symon, General Manager, Corporate

Mr Jeremy O'Sullivan, Assistant Secretary, Legal and Risk Branch, Corporate

Mr Darren Hooper, Assistant Secretary, Business Services Branch, Corporate

Mr Brian Quade, Assistant Secretary, Parliamentary, Public Affairs and Performance Branch, Corporate

Ms Anya Moore, Assistant Secretary, Human Resources Branch, Corporate

Ms Robyn Kingston, Assistant Secretary, Internal Audit

Mr John Burston, Chief Information Officer, IT Services Group

Mr Simon Gotzinger, Specialist Lawyer, Corporate Legal Team

Mr Henry Carr, Principal, Government Lawyer, Corporate Legal

Outcome 1: An effectively functioning labour market

Mr Michael Manthorpe, Manager, Industry Strategies Taskforce

Ms Jo Caldwell, Group Manager, Job Search Support Group

Mr Tony Waslin, Assistant Secretary, Transition Programmes Branch, Job Search Support Group

Mr Bill Traynor, Assistant Secretary, Employment Exchange Branch, Job Search Support Group

Mr John Manthey, Director, Budget and Performance, Transition Programmes Branch, Job Search Support Group

Ms Margaret Kidd, Assistant Secretary, Work Experience Branch, Job Search Support Group

Mr Finn Pratt, Group Manager, Intensive Support Group

Ms Kylie Emery, Assistant Secretary, Indigenous Employment Programmes Branch, Intensive Support Group

Ms Kerren Thorsen, Assistant Secretary, Employment Services Performance Branch, Intensive Support Group

Ms Alison Durbin, Assistant Secretary, Intensive Support Operations Branch, Intensive Support Group

Ms Jennifer Taylor, Group Manager, Employment Analysis and Evaluation Group

Mr Graham Carters, Group Manager, Employment Policy Group

Ms Carolyn McNally, Assistant Secretary, Priority Group Policy Branch, Employment Policy Group

Mr Peter Hade, Group Manager, Employment Business Services Group

Mr Anthony Parsons, General Manager, Employment Systems

Outcome 2: Higher productivity, higher pay workplaces

Mr James Smythe, Chief Counsel, Workplace Relations Legal Group

Ms Diane Merryfull, Assistant Secretary, Legal Policy Branch 2, Workplace Relations Legal Group

Mr Robert Bennett, Assistant Secretary, Legal Policy 1, Workplace Relations Legal Group

Mr Peter Cully, Director, Organisations, FOA and International Section, Workplace Relations Legal Group

Mr Rex Hoy, Group Manager, Workplace Relations Policy Group

Ms Sandra Parker, Assistant Secretary, Strategic Policy Branch, Workplace Relations Policy Group

Ms Linda Lipp, Assistant Secretary, Safety, Compensation and International Branch, Workplace Relations Policy Group

Ms Sue Sadauskas, Assistant Secretary, Wages and Conditions Policy Branch, Workplace Relations Policy

Mr Ted Cole, Advocacy Team Leader, Advocacy Team

Ms Barbara Bennett, Group Manager, Workplace Relations Implementation Group

Ms Flora Carapellucci, Assistant Secretary, Industries Branch, Workplace Relations Implementation Group

Mr John Kovacic, Assistant Secretary, Building Industry Branch, Workplace Relations Implementation Group

Mr Michael Maynard, Assistant Secretary, Public Sector Branch, Workplace Relations Implementation Group

Mr Nigel Hadgkiss, Director, Interim Building Industry Taskforce

Ms Jenet Connell, Group Manager, Workplace Relations Services Group

Mr Steve Kibble, Assistant Secretary, Workplace Relations Services Branch, Workplace Relations Services Group

Mr Mark Jasprizza, Assistant Secretary, Remuneration Tribunal Secretariat, Workplace Relations Services Group

Mr Dianne Fletcher, Assistant Secretary, Employee Entitlements Project Branch,
Workplace Relations Services Group

Mr James Coleborne, Assistant Secretary, Employee Entitlements Branch, Workplace
Relations Services Group

Office of the Employment Advocate

Mr Jonathan Hamberger, Employment Advocate

Mr Peter McIlwain, Deputy Employment Advocate, Client Services Network

Mr David Rushton, Senior Legal Manager

Equal Opportunity for Women in the Workplace Agency

Ms Fiona Krautil, Director

ACTING CHAIR (Senator George Campbell)—I declare open this meeting of the Senate Employment, Workplace Relations and Education Legislation Committee. I welcome Senator the Hon. Eric Abetz, Minister representing the Minister for Employment and Workplace Relations; the department secretary, Dr Peter Boxall; officers of the Department of Employment and Workplace Relations and agencies; and observers to this public hearing. The committee examined the budget expenditure of this portfolio at its hearings in June 2003 and at supplementary hearings in November 2003. It will today be considering proposed additional expenditure for the year ended June 2004, which the Senate referred to the committee on 11 February 2004.

The committee has resolved that answers to questions on notice are to be lodged with the committee by Friday, 2 April 2004, and that it will report to the Senate on or before 24 March 2004. I remind officers that, in its orders of continuing effect, the Senate has resolved that there is no area in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also remind officers that they shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked to superior officers or to a minister. I remind participants that oral evidence and documents in estimates proceedings are part of the public record. Minister, would you like to make an opening statement?

Senator Abetz—No, I would not. I have no opening statement.

CHAIR—We turn first of all to cross-portfolio questions.

Senator WEBBER—I thought we might start by re-examining some of the things that we did last time on the job seeker accounts and training accounts.

Dr Boxall—We are more than happy to do that. That is an outcome 1 question. Do you want to go straight into outcome 1?

CHAIR—Senator Webber, we are dealing with cross-portfolio questions. Are there any cross-portfolio questions?

Senator WEBBER—There will be.

Senator Abetz—It would be helpful, as Dr Boxall says, to have them in the various outcomes. But if there are general questions it is handy to deal with those first. That is the usual practice.

Senator WEBBER—No, there are no general questions. Let us go straight to outcome 1.
[9.07 a.m.]

Department of Employment and Workplace Relations

CHAIR—We will move to outcome 1, An effectively functioning labour market.

Senator WEBBER—As I mentioned, I thought we might start with a re-examination of some of the issues to do with the job seeker account and the training account. When we last met, in November, I think Mr Correll mentioned that the allocation for the job seeker account was in the order of \$180 million and for the training account a further \$18.4 million. Are those figures still correct?

Mr Correll—Yes, on a full year basis those are the right overall estimates.

Senator WEBBER—I have noticed, from subsequent answers to questions that were taken on notice, that in the period from July 2003 to October 2003 the total amount expended on the job seeker account was \$10.956 million. Is that still a valid figure?

Mr Pratt—Expenditure on the job seeker account now exceeds \$31 million.

Senator WEBBER—If we thought we were going to spend about \$180 million in the full year, how was it that we only managed to spend about \$11 million in four months?

Mr Pratt—The \$180 million is a notional budget for the job seeker account. At this stage we have about \$150 million of that allocated to Job Network members for the job seekers who have commenced with them. In the first few months of the start of the third employment services contract, we did not expect very much job seeker account funding to be spent at all because during that time Job Network members were getting their clients on board, getting to know them and starting to work with them. In fact, in the early months the Job Network expenditure went a little bit higher than projected expenditure under the job seeker account.

Senator WEBBER—But surely, if we are projecting to spend \$180 million plus, we should have spent more than \$6 million in a quarter. I am just trying to work out what is going on here.

Mr Pratt—That is the notional budget for the job seeker account in a full year. This is a start-up year. We do not expect that \$180 million will be spent on the job seeker account in this first year. Probably next financial year it will be; it may even exceed that. The credits are attached to the Job Network member's virtual job seeker account bank, and it is up to them when they choose to use it. They may not spend all of it on a job seeker immediately. They may hold off some until later on to wait and see whether or not the job seeker gets a job.

Senator WEBBER—That brings to mind two questions. If you do not expect to spend that much money, why allocate that much money? How did we come up with the figure of \$180 million?

Mr Correll—It needs to be understood that this is simply an effect of the first year of the active participation model. In any normal year of the operation of the active participation model, you would have events occurring in March, April, May and June of the year before which would lead to expenditure items building up and accumulating and that would result in expenditure against the job seeker account. Because you are starting the whole operation of

the job seeker account from 1 July under the first year of the active participation model, you have a ramping-up of expenditure occurring. The job seeker account works on the basis of reimbursement of expenses, and it is quite logical that that occurs. As soon as we get into the full year of operation, where you have the normal flow-on effects, you would expect full utilisation of the job seeker account in expense terms. Meanwhile, those values are still being credited to the notional bank as job seekers come in and go through the various stages of the service continuum.

Senator WEBBER—Why not allocate what you expect to spend this year rather than what you expect to spend next year, when there is full operation? I am only trying to find my way through these budget papers, and it is all a bit odd.

Mr Correll—The notional budget—as Mr Pratt referred to it—is basically the amount of money that you would expect to be credited into the account over the year basis. Because you have the first year effect, the actual expensing of that will not occur in the first year. In our estimates we have taken into account what the likely expensing is against the job seeker account, not simply the notional crediting. Is that clear?

Senator WEBBER—So I have actual money as opposed to notional money?

Senator GEORGE CAMPBELL—Mr Correll, how is the notional amount of \$180 million established? This is the \$11, is it?

Mr Correll—There are various quantum amounts that are credited into the overall notional budget, which is the job seeker account. It is the notional bank that operates there. Basically the amounts in the bank can be drawn down on in expenses, in reimbursements against claims that are made. Effectively, as job seekers pass through points in the service continuum—for example, by moving into intensive support customised assistance—credits are made into that notional budget. The actual expensing of that then occurs as transactions occur—that is, as training is purchased or as protective clothing is purchased. That is when the actual expensing occurs against that account.

Senator GEORGE CAMPBELL—I understand that, but how many job seekers does the \$180 million represent notionally?

Mr Pratt—Across the course of the year probably 400,000 to 500,000 notionally.

Senator GEORGE CAMPBELL—In the band of 400,000 to 500,000?

Mr Pratt—That is right. We have currently got 440,000 job seekers who are in intensive support who have had a credit made against them. While we have credited \$151 million so far, we are seven months into the financial year and we will easily hit the \$180 million credited into the account by the end of the financial year as more job seekers commence with their Job Network members.

Senator GEORGE CAMPBELL—Do you have a breakdown on what the \$31 million has been spent on to date?

Mr Pratt—Yes. For convenience sake, I will round these figures off. Interpretive services, \$252,000; fares and petrol assistance, \$926,000; clothing and equipment, \$5.1 million; professional services, \$3.5 million; training, \$10.1 million; Job Network member transport costs, \$180,000; work related licensing, \$163,000; relocation assistance, \$165,000; employer

incentives, \$1.6 million; self-employment, \$271,000; job seeker incentives, \$407,000; transport assistance, \$2.2 million; Job Network member contacts, \$620,000; bulk payments, \$2.7 million; and other, \$2.3 million. That totals \$31.4 million.

Senator GEORGE CAMPBELL—I want to come back to some of those issues. What is contained within professional services?

Mr Pratt—That might include things like counselling with a psychologist or assistance with someone who specialises in issues associated with a particular disability.

Senator GEORGE CAMPBELL—And there is \$10 million for training. What type of training has been undertaken?

Mr Pratt—It is across the spectrum. I do not think I have with me an actual break-up, but it is quite typical of the sort of training which Job Network members and employment services in the past have provided. There is certainly a strong focus on things like computer training, occupational health and safety, training to get certain work related licences and training in tourism and hospitality. It is based around the individual needs of the job seekers and also the skill requirements of the local labour market.

Senator GEORGE CAMPBELL—Can you take that on notice, Mr Pratt, and see if you can give us a more detailed breakdown of the actual training that is being purchased under the account?

Mr Pratt—Yes.

Senator WEBBER—And what some of those other figures refer to as well.

Mr Pratt—Yes.

Senator WEBBER—I am trying to compare them with an answer that you have given to a question on notice from last time.

Mr Pratt—We will provide the answer consistent with that, of course.

Senator WEBBER—That is wonderful.

Senator GEORGE CAMPBELL—You did not mention literacy and numeracy in that. Is that provided for separately?

Mr Pratt—There would be literacy and numeracy training provided in that.

Senator GEORGE CAMPBELL—That would be in the training parcel?

Mr Pratt—Yes. I am not sure whether we can quantify the extent of that. Certainly, of course, Job Network members are also referring people to literacy and numeracy programs available around the country. In fact, they have referred over 1,100 so far.

Senator GEORGE CAMPBELL—I would be interested also in looking at the age profile of people taking literacy and numeracy courses.

Mr Pratt—After the last estimates, we provided a break-up along those lines. I imagine that the proportions are quite similar. If you would like, we will update that for you on notice.

Senator GEORGE CAMPBELL—Yes, please.

Senator WEBBER—This is very similar, but refers to an answer from the last estimates. In response to a question on notice, you have given us a breakdown of how that previous allocation of \$10.956 million was spent. Just so that I can get my head around this, what is a ‘bulk’ item?

Mr Pratt—That is where a Job Network member might purchase a large number of bus tickets that they want to provide to their job seekers to attend interviews and the like. Clearly, it would not make any sense for them to individually record those on the system, so we allow them to buy those items in bulk.

Senator WEBBER—What is the distinction between the item ‘clothing and equipment’ and the item ‘common work clothes’?

Mr Pratt—In the answer I have to question on notice W268-04 I have got ‘clothing and equipment’ at \$1.91 million. Under ‘bulk’ there is also a list of common work clothes. You might find that Job Network members buy things like uniforms which they can actually get in bulk. An example might be assisting people they are training or placing in the hospitality industry with the clothing necessary to work in a bar or a restaurant. It is possible they might have a bulk deal on getting that sort of clothing. It is possible that work clothing could be covered across both of those items.

Senator WEBBER—With items that are purchased in bulk, whose job seeker account is that expenditure credited against? How do you manage that? Do you do it by bus ticket?

Mr Pratt—Certainly they record on the system what the bulk purchase is for, and it is credited to the Job Network member’s job seeker account. They keep records of which job seekers get assistance through the bulk purchases.

Senator WEBBER—How many job seekers accessed the \$1.919 million spent on clothing and equipment up till October?

Mr Pratt—I cannot tell you that. I know that, in terms of the \$31.4 million that I was talking about before, over 122,000 job seekers have been assisted.

Senator WEBBER—Going back to the application of the bulk expenditure, if I understand what you were saying there is a provider job seeker account as well as an individual job seeker account; is that right?

Mr Pratt—It is all the provider’s job seeker account. The funding is notionally credited for each job seeker as they go into intensive support or as they pass a certain point on the continuum but that money is not hypothecated for an individual job seeker. The Job Network member can determine based on individual needs the level of funding spent on each job seeker. So it is the Job Network member’s job seeker account.

Senator WEBBER—The average expenditure per job seeker, given the figures that you have just revealed, is therefore about \$245—that is, \$30 million divided by 122,000.

Mr Pratt—The average expenditure at this stage is about \$258.

Senator WEBBER—I presume the fact that ‘fares and petrol assistance’ is listed as a separate item as well as under ‘bulk’ is for the same reasons as with clothes?

Mr Pratt—There could be some overlap, but fares typically in this context would be more expensive fares—for example, a train ticket rather than a bus ticket.

Senator WEBBER—For the novices amongst us here, it is a little confusing to find items listed twice. I am just trying to get my head around it. Going back to the \$258, roughly, per job seeker—is that what you anticipated expending?

Mr Pratt—In another question on notice, I think, asked in the House of Representative some time late last year, we got asked a similar question. The answer we gave was that what we expect on average for Job Network members to spend on their clients are the notional amounts which are credited to the job seeker account for each individual at the times they go through, with the important qualification that that is only an average amount because the Job Network members will determine, with each job seeker, what they need.

Mr Correll—Also, again, remember the start-up effect here. The average expenditure to date on a job seeker in these early days is not going to be typical of the picture as it moves along, because the investments for many job seekers in the early days have just started. There is not just one transaction for a job seeker out of the job seeker account; it might be a series of transactions out of the job seeker account. So you would expect, progressively over time, to see that average figure rise as you overcome the first year effect, because the expenditures so far on job seekers have only just been in the early days, the first six to seven months.

Mr Pratt—So that we know the quantum we are talking about for customised assistance to clients, for their first period we are talking \$900. For the highly disadvantaged job seeker it is \$1,350. In addition to that, for those who are locationally disadvantaged there is a supplement of \$225. Those are the amounts which are credited to the job seeker account for job seekers who go into those services.

Senator GEORGE CAMPBELL—You say the average is \$258 for a job seeker.

Mr Pratt—So far.

Senator GEORGE CAMPBELL—What is the range?

Mr Pratt—There is no limit.

Senator GEORGE CAMPBELL—For the actual job seekers who have accessed the account, what is the range of payments that you have been paying out?

Mr Pratt—I cannot answer that definitively. I will take that on notice. But it would be in the thousands. If I get an update from the back stalls here I will let you know, otherwise I will take it on notice.

Senator GEORGE CAMPBELL—And do we know the exact number of job seekers in the various range? Can we put them in bands?

Mr Pratt—I will have to take that on notice.

Senator WEBBER—Bearing in mind that Mr Correll said that the initial allocation was \$900—and you have said that we have to take into account the effects of start-up, although I would have thought we could have anticipated some of those effects—\$258 is a long way short of \$900 after seven months, isn't it?

Dr Boxall—We did anticipate the start-up. The example is that, for a job seeker that comes in, the account would be credited for \$900 and then over a period of time we would expect on average the expenditure to go up to \$900. At the moment it has not been possible for Job Network to spend that money because they have been taking on board the job seekers. As we move into next year, we would expect that, where there are job seekers in the pipeline from the previous year, the average expenditure would be closer to the notional amount allocated.

Senator WEBBER—But accepting some of that, \$258 is still, after seven months, a long way short of \$900.

Mr Pratt—I think it is worthwhile keeping in mind also that, in regard to that average, some of the transactions relate to things like \$1 for a bus ticket. Clearly, those bring down the average. Over time, Job Network members, working with their job seekers, will use the job seeker account as needed to get them into work. In the early days we would not expect them to make substantial investments in the client. We know from experience that job seekers in the early periods of their unemployment are quite likely to get employment with relatively little assistance. So over time we would see the average amount grow, as Dr Boxall has pointed out.

Senator WEBBER—But we will still be getting lots of new job seekers in that will have been unemployed for a relatively short amount of time.

Mr Pratt—That is correct—

Senator WEBBER—Surely you are going to have the same mix.

Mr Pratt—and they will bring in small credits to the job seeker account for that early period and there will be expenditure on them associated with things like fares, which will contribute to the average.

Senator WEBBER—But in the meantime some of these people have been in the system since last July, so that is a reasonable amount of time to have been in there. I am curious that the average is not higher, that is all. Is there a limit on how many times a job seeker can access their account for the same purpose?

Mr Pratt—The account is the Job Network member's account. It is up to the Job Network member as to how many times they choose to use the account to assist a job seeker.

Senator WEBBER—But there is no limit? They could spend their entire notional allocation of \$900 on bus tickets, for example?

Mr Pratt—Hypothetically, yes.

Mr Correll—That is bearing in mind that, if there was abnormal usage of the job seeker account, our performance management monitoring processes would detect that and there would likely be a discussion between the provider and our contract manager over such an issue.

Senator WEBBER—Can you provide me with a definition of Job Network member contacts?

Mr Pratt—That might be where a Job Network member is choosing to work with a client outside of the contacts which are funded through the contract—that is, the service fees they get—and they are providing an additional service.

Senator WEBBER—What is an ‘other’? There is \$0.839 million spent on ‘other’.

Mr Pratt—We define ‘other’ as any legitimate costs that do not fit appropriately under the other categories listed.

Senator WEBBER—Such as?

Mr Pratt—I will take that on notice.

Mr Correll—Many Job Network members use very innovative approaches in this area. It can involve the purchase of an alarm clock; it can involve a range of things that will help a job seeker get a job.

Senator WEBBER—What percentage of total job seekers have accessed their account?

Mr Pratt—I am working roughly here, and I will clarify this if I am way out. I would say around 30 per cent so far.

Senator WEBBER—Does that fall within the band that the department expected?

Mr Pratt—I do not know that we projected a proportion of job seekers to be assisted at a particular time but, keeping in mind that many of the clients who could be assisted through the job seeker account are relatively short-term unemployed and the assistance they may need relates simply to things like fares and so forth, it is impossible for me to say.

Senator WEBBER—Last time when we discussed this I think it was about 27 per cent. Now it is about 30 per cent.

Mr Pratt—That is my estimate. It is in that order.

Senator WEBBER—Again, I am grappling with—

Mr Pratt—That is keeping in mind that the number of job seekers who are now eligible for assistance in intensive support has grown across that period, so it is likely that the proportion of assistance provided is at a similar level.

Senator WEBBER—So the proportion is the same; it is just that the numbers are greater?

Mr Pratt—Yes.

Senator WEBBER—What is meant by ‘employer incentives’?

Mr Pratt—The typical employer incentive might be a wage subsidy.

Senator WEBBER—What is meant by ‘job seeker incentives’?

Mr Pratt—It might be something like a reward for the job seeker if they get a job.

Senator WEBBER—How many job seekers have accessed that?

Mr Pratt—I would have to take that on notice. I do not have a figure for that.

Senator WEBBER—What kind of reward would it be?

Mr Pratt—It could be a range of things.

Senator WEBBER—An alarm clock? Money?

Mr Pratt—It would be more likely to be something which helps them with their work related expenses, for example, or a movie ticket.

Senator WEBBER—Bus tickets?

Mr Pratt—Unlikely.

Senator WEBBER—It might be nice for them to get to work. Why do these people need incentives if they have got a job?

Mr Pratt—I cannot say, but it may well be that some Job Network members believe that, by providing incentives to their job seekers, it may help them with their confidence or their motivation in trying to get a job or complete a training course. It is a matter for each Job Network member.

Senator WEBBER—I thought the whole incentives thing was meant to have been built into the system and that it did not need a specific allocation.

Mr Correll—One example of such an incentive is the use of mobile phones. Some job seekers are provided with a mobile phone to assist with access to job information, particularly through SMS messages. If they are successful in securing a job, they get to keep the mobile phone.

Senator WEBBER—Interesting. I will return to the issue of mobile phones later. Again, turning to the issue of the training account and looking at some of the answers to questions on notice, I notice that only \$899,000 was spent in total during the period 1 July to 31 October. What percentage of eligible job seekers have accessed the training account?

Mr Pratt—The current expenditure figure is \$2.27 million. I will have to take that on notice or I will come back to you if I have the information somewhere.

Senator WEBBER—Again, \$2.7 million out of an allocation of \$18.6 million over seven months seems a little low, doesn't it?

Mr Pratt—Looking at it in the context of the start-up of the third employment services contract, the same issues apply as with the job seeker account. It is worth noting that the expenditure in seven months is almost the same as the entire expenditure on the training account last financial year, so clearly it is accelerating.

Senator WEBBER—What strategies is the department using to increase the usage of the training account?

Mr Pratt—We have worked with the Job Network members to promote usage of the training account. We have identified any impediments they might see to using it and have made some simple systems changes to remove any disincentives.

Senator WEBBER—And what kinds of impediments have they raised?

Mr Pratt—One impediment they raised was they felt that the cap of \$800 was unhelpful and so that has been changed. The cap has been removed so, like the job seeker account, they can choose how much they spend on each job seeker based on the job seeker's needs. In relation to your question about the proportion of people who have been assisted, I think it is in the order of about 20 per cent to 30 per cent of the job seekers potentially eligible to have assistance from the training account. Again, if I am substantially wrong I will clarify that.

Senator WEBBER—You do not happen to know the actual number of job seekers who have accessed it?

Mr Pratt—I can tell you that over 10,000 transactions have been undertaken through the training account, so it will be a subset of that. It is possible that the Job Network members may spend from the training account on a job seeker more than once.

Senator WEBBER—So again they can access it more than once?

Mr Pratt—Yes.

Senator WEBBER—Activity is not a sign of the number of job seekers. Going back to what you were saying about the cap, is that likely to affect the estimate in future years of expenditure?

Mr Pratt—No. The \$18.4 million is a notional amount. Job Network members are expected to work within the amount of funding which is notionally available to them under the training account. But we have no expectation that we will need to get more money for the training account in future years.

Senator WEBBER—What makes you so confident of that?

Mr Pratt—Essentially it looks like we have adequate funding there so far. Also, if a Job Network member wishes to, they could provide exactly the same assistance for a job seeker using the job seeker account.

Senator WEBBER—Are the courses that are paid for out of these training accounts accredited by the relevant training authorities?

Mr Pratt—In many cases they would be, but not in all cases.

Senator WEBBER—What is the average duration of the courses?

Mr Pratt—I will have to take that on notice. I think probably between a week and three or four weeks.

Senator WEBBER—And why wouldn't the courses be accredited?

Mr Pratt—I expect the vast majority would be accredited. It may be that a Job Network member wants a job seeker to undertake part of an accredited course or something which is very specific to a particular opportunity in the labour market and there is no accredited training course for that and they may use another form of training. But my expectation is that the vast majority of training would be accredited.

Senator WEBBER—What is the average cost of these courses?

Mr Pratt—I will have to take that on notice.

Senator WEBBER—Do you know the outcome rate for people who have accessed their training accounts?

Mr Pratt—We have information of that sort, but I do not have it to hand.

Senator WEBBER—Fair enough. What you probably also do not have to hand—so you can take it on notice—is the percentage of training courses that are paid for that are not accredited.

Mr Pratt—I will take that on notice to see if we can answer it.

Senator WEBBER—Have there been any complaints to the customer service line about the difficulties in accessing training or job seeker accounts?

Mr Pratt—Not to my knowledge, but I do not look after the complaints line.

Mr Correll—To my knowledge there has not been any complaints in that area. I take advice from my colleagues.

Mr Hade—I would have to repeat what Mr Correll has said. To my knowledge there have not been any complaints, but I will undertake to take that on notice and get back to you on it.

Senator WEBBER—I go back to what you were saying before, Mr Pratt, about the training account and the job seeker account and how the two accounts can be used to pay for similar things.

Mr Pratt—The training account is specifically for Indigenous and mature age job seekers to provide training for those job seekers. Of course, the assistance which is available through the training account can also be purchased for any job seeker through the job seeker account. So if a Job Network member wished to provide training as well as a wage subsidy they would use both accounts.

Senator WEBBER—Why have the two accounts then?

Mr Pratt—One is an Australians Working Together initiative which is specific to Indigenous and mature age job seekers because the government has a specific focus on providing training for those job seekers. The job seeker account is a more broader ranging form of intervention which is available for a greater range of job seeker types.

Senator WEBBER—But surely you could just increase the notional allocation to those people for their job seeker account rather than have two separate accounts.

Mr Pratt—That is option. However, the government policy on that is that it wishes to have emphasis on training for Indigenous and mature age job seekers and, therefore, we have the training account. The average cost per training account transaction is \$243.

Senator GEORGE CAMPBELL—So in fact the Indigenous job seeker and the mature age job seeker can access both accounts, but the normal job seeker can only access one.

Mr Pratt—That is correct.

Senator GEORGE CAMPBELL—What is the percentage of Indigenous and mature age job seekers in the Job Network?

Mr Correll—A total of 6.6 per cent of the active caseload for the Job Network are Indigenous job seekers and 13.7 per cent are mature age job seekers.

Senator WEBBER—If the average duration of a course is about one to three weeks and the average cost is \$243, that is not buying much intensive course assistance, is it?

Mr Pratt—Those are averages. That means that some people may do a one-day or a two-day course which relates to occupational health and safety, first aid or something like that. Someone else might do a computer course which goes for four or five weeks.

Senator WEBBER—Is this new function with the two accounts being utilised as the department anticipated in its modelling?

Mr Pratt—As I mentioned earlier in terms of our regional projections, the job seeker account is running slightly ahead of the original projections.

Senator GEORGE CAMPBELL—Mr Correll, I have some questions relating to the modelling. Can you explain to us the characteristic of a job seeker that is described as ‘non-activity tested’?

Mr Correll—Yes. A non-activity tested job seeker can be on a range of different forms of income support payments that are not subject to the activity test, effectively. The payments that are subject to the activity test are Newstart and youth allowance. Other payments—for example, the disability support pension, the mature age allowance, parenting payments—are not subject to the activity test. They would be deemed to be non-activity tested job seekers, as would be job seekers who are looking for work and not on an income support payment.

Mr Pratt—Particularly job seekers who are under 21 who are not on income support at all.

Senator GEORGE CAMPBELL—I see. And these people who fall into this category are not required to be activity tested; is that correct?

Mr Correll—That is correct. That is under the social security legislation, I understand.

Senator GEORGE CAMPBELL—Does DEWR have a record of the typical work history of these people? Have you profiled the work history of people who fall into this category?

Mr Correll—There is a very broad range of different groups of people who are non-activity tested job seekers. Even the group of people who are in receipt of disability support pension are not a single group that you could characterise in any particular way. A range of different circumstances are involved for such people. So I find it hard to respond further than that to your question, Senator.

Senator GEORGE CAMPBELL—Have DEWR looked at the people who fall into the category of disabled, single parents, etcetera, and tried to do an assessment of their work history—whether they have been employed in the past, where they have been employed, what are the jobs that they are most suited for in the job market?

Mr Correll—Those sorts of assessments would get undertaken on a case by case basis by individual Job Network members. If someone comes into the office on a parenting allowance or a disability support pension—the whole basis of Job Network services is to look at identifying and tailoring assistance to specific needs—the Job Network member would look at assessing the background, experience and capabilities of that person in the context of opportunities within the local labour market and then look at putting that into a job search plan for the individual.

Senator GEORGE CAMPBELL—You do not attempt to cross-reference these and identify whether there are commonalities between various groups?

Mr Correll—In some ways we do that through the use of tools such as the job seeker classification instrument, which is used to identify people who are at risk of long-term unemployment. That type of tool is used to attempt to categorise people—whether they are subject to an activity test or not subject to an activity test—into an appropriate stream of service. So if someone is at risk of long-term unemployment, it would mean that they would

stream immediately into the most intensive form of assistance, and that is intensive support customised assistance.

Senator GEORGE CAMPBELL—Are you aware of how many non-activity tested job seekers in total are currently in the system?

Mr Pratt—Approximately 200,000 non-activity tested job seekers, made up of those who are on the non-activity tested other payments, and non-allowance youth. These job seekers are eligible for the full range of Job Network services.

Senator GEORGE CAMPBELL—And that is out of a pool of what?

Mr Pratt—Currently, the pool of job seekers eligible for Job Network is over 790,000.

Mr Correll—That represents the number of non-activity tested job seekers currently on the active caseload. There are, of course, many other individuals on working age income support payments who are not on the Job Network members' active caseload today. Indeed, consistent with government policy and directions, one of the key things we are aiming to do is to attempt to improve access to Job Network services for some of those key groups to improve participation for those groups. There are a number of areas that are being worked on to do that at present.

Senator GEORGE CAMPBELL—Can you identify for us who those groups are?

Mr Correll—The four key target groups for increased participation are people on parenting allowance, disability support pensioners and people generally with a disability, Indigenous people, and mature age workers. Those priorities were clearly reflected in the portfolio budget statement this year. They are listed up front in the portfolio budget statement as key government priorities for increasing labour force participation.

Mr Pratt—There have been reports in the media recently that suggest that non-activity tested job seekers, such as people who are on the disability support pension or the parenting payment and the non-allowance youth who make up the 200,000, are not eligible for Job Network services. That is incorrect. I need to set the record straight on that. Those job seekers have been eligible for Job Network services since the beginning of Job Network. Job Network members receive service fees to assist those clients and outcome fees when they place them in employment.

Senator GEORGE CAMPBELL—We might come back to that issue a little later on. Is it possible for two people who have exactly the same issues and one to be classified as a non-activity tested job seeker and the other to be on another payment, such as the parenting payment or the disability support pension?

Mr Pratt—It is possible to have a job seeker on an activity tested form of income support, such as Newstart allowance, whose main barrier to employment might be lack of skills. Similarly, you might have someone on a disability support pension or a parenting payment with exactly the same lack of skills, and that is their main barrier to employment.

Senator GEORGE CAMPBELL—How could this occur if two people have the same characteristics? How could one be classified as a non-activity tested job seeker and the other as a person on parenting payment or disability support?

Mr Pratt—It is based on the nature of the need for income support. Government policy for decades has been of course that some needs are valid in themselves and, therefore, do not require an individual to be activity tested—for example, a parent looking after small children. They have the opportunity to access employment services but there is no requirement for them to do that. These are questions that are probably most appropriately directed to the FaCS portfolio.

Senator GEORGE CAMPBELL—Presumably it is possible for Centrelink officers to make different assessments of individuals.

Mr Pratt—It depends on the income support that the customer claims at Centrelink. If they attempt to claim parenting payment or disability support pension they are subject to the various criteria used to assess whether someone is eligible for that. Clearly, you need to meet those criteria to get access to one of those forms of income support. If they do not and they are still looking for income support and are looking for a job, of course they go on to the Newstart allowance or the youth allowance.

Senator GEORGE CAMPBELL—Does Centrelink share the same view as to the number of non-activity tested job seekers currently in Australia?

Mr Pratt—You will have to ask that question of Centrelink.

Senator GEORGE CAMPBELL—I presume I will have to ask the same questions of FaCS.

Mr Pratt—Centrelink and DEWR share a database on the number of people who are registered for employment services. Those databases are reconciled on a daily basis and they are the same within one per cent, but you need to direct your question to Centrelink.

Senator GEORGE CAMPBELL—So if you are servicing their database, why would there be a difference in their figures and your figures?

Mr Pratt—I can only comment on our figures.

Senator GEORGE CAMPBELL—I understand that but, if you are sharing the same database, why would they get a different result from you?

Dr Boxall—We do not know that they did get a different result.

Senator GEORGE CAMPBELL—I thought Mr Pratt said there is a one per cent difference.

Mr Pratt—I am referring to the fact that on a daily basis job seekers might change address or go off income support. That is advised either to the Job Network or Centrelink and the systems then talk to each other to advise the other one of the change of circumstance.

Senator GEORGE CAMPBELL—So you are entering data in from two different sources, and it may not be at the same time.

Mr Pratt—That is correct.

Senator GEORGE CAMPBELL—Do FaCS, Centrelink and DEWR meet on a regular basis to consider the statistics you are all collecting?

Mr Correll—We do regular reconciliations of the data stored on the Centrelink database and the employment services database. There are monthly reconciliations of data and the two databases are kept constantly in sync through that reconciliation process.

Senator GEORGE CAMPBELL—This is done each month?

Mr Correll—Yes, every month.

Senator GEORGE CAMPBELL—What occurs if there are differences?

Mr Correll—There is a defined protocol for examining each transaction and making corrections to the transaction. There is then an overwrite of the record against the relevant database to correct and update the transaction.

Mr Pratt—As Mr Correll says, that formal reconciliation happens each month. Of course, each day there are transactions between the systems to make sure that they are reflecting each other.

Senator GEORGE CAMPBELL—What government agency has the lead role in determining the number of non-activity tested job seekers?

Mr Correll—In terms of determining the number of job seekers requiring employment services, there is no question: the agency responsible is this portfolio.

Mr Pratt—Of course the individual job seeker ultimately determines that by registering to get employment services.

Senator GEORGE CAMPBELL—But the principal responsibility is with DEWR in terms of the numbers of non-activity tested job seekers.

Mr Correll—In terms of estimating the numbers of being serviced, remember that the group of non-activity tested potential job seekers is a very large one. Not all of them will at any point in time—in fact, it is a relatively small portion—be accessing Job Network services.

Senator GEORGE CAMPBELL—So there are 200,000 people in the system. How many at any point in time are accessing the services?

Mr Correll—That is a point in time figure.

Mr Pratt—There are 200,000 who are currently available for services by the Job Network. There are hundreds of thousands more disability support pension recipients and parenting payment recipients who do not access those services at this stage.

Mr Correll—There are almost 700,000 people on a disability support pension. There are almost 600,000 people on parenting allowance payments. They are all fully eligible for Job Network services. At the present stage, only a small proportion have been—this is not new—and are accessing those services. One of the key things we are aiming for at the moment is to increase and improve the access to those services to increase participation for those groups.

Senator WEBBER—How many would not be accessing the services?

Mr Correll—Very large numbers. In the area of disability support pension, at the present stage there would be only 2,000 or 3,000 disability support pensioners accessing Job Network services out of a total group of just under 700,000. I note that in many cases Job Network services may not be the appropriate service for someone who is on a disability support

pension, but in some cases—indeed in many cases—we believe that it is the appropriate service and there is the potential for considerable assistance there to help people on disability support pensions into work. It is similar to the parenting allowance. I do not have the figures in front of me, but there are potentially very significant numbers of people on parenting allowances who could participate. I note that Australia has relatively low participation rates by world standards—particularly for groups such as lone parents.

Senator WEBBER—Does the department have any particular strategies to increase the participation of these groups?

Mr Correll—We certainly do.

Senator WEBBER—And what are they?

Mr Correll—There are initiatives such as the disability support pensioner pilot that is currently running with a number of the specialist Job Network member organisations. There is also a pilot that is being constructed as we speak relating to the Transition to Work program to assist an increasing number of parents into the work force and, in fact, improve the connections between the Transition to Work program and Job Network services to assist in that area.

Senator GEORGE CAMPBELL—You gave us figures earlier, Mr Pratt, of 790,000 and 200,000. Are they the non-activity and activity tested people that are currently in the system?

Mr Pratt—That is correct.

Senator GEORGE CAMPBELL—And that excludes those other 600,000 or 700,000 people that Mr Correll was talking about?

Mr Pratt—That is correct.

Senator GEORGE CAMPBELL—When the model for Job Network 3 was designed, was any modelling carried out to show what would be the lowest number of job seekers in the system necessary to maintain its viability?

Mr Pratt—No.

Senator GEORGE CAMPBELL—None at all?

Mr Pratt—That would require speculation about things like the outcome of purchasing processes and unemployment rates. Essentially, the number of people who are going to be assisted is dependent on the number of people who are registered for employment services at any given time. We know how many there are every three or six months. We do not expect that is going to drop to two per cent in the near future.

Senator GEORGE CAMPBELL—But you did not seek in the modelling to identify what was the floor below which, if you fail, it would cause financial stress on the system?

Mr Correll—No. The fundamental numbers used in the modelling were based on the number of job seekers registered at that time. That was the key consideration. The overall structure of the pricing arrangements for Job Network is based on a service fee based on client numbers, and so you would have to think there would be a very dramatic reduction in overall numbers in job seekers registered to hit a viability bottom line.

Senator GEORGE CAMPBELL—What was the figure again that you based the modelling on?

Mr Correll—The initial figure was 780,000. That was when the tender documentation was released in October 2002. That number was revised downward to 720,000 in March 2003, which was consistent with falling unemployment rates.

Mr Pratt—The 780,000 figure, which was released with the tender, was the number registered on the register as at the end of June 2002 and the beginning of July 2002.

Senator GEORGE CAMPBELL—And did that 780,000 include both activity tested and non-activity tested job seekers?

Mr Correll—Yes, it did.

Senator GEORGE CAMPBELL—What was the proportion?

Mr Pratt—Roughly 75-25 activity tested to non-activity tested.

Senator GEORGE CAMPBELL—Do you have exact figures?

Mr Pratt—I do not. We could take it on notice. Certainly the information that was provided to Job Network members was broken down by the different allowance types—Newstart allowance, youth allowance and the other allowances, youth non-allowees—totalling to total registrants. That information is available.

Senator GEORGE CAMPBELL—What were the number of model options made available to the department before the final one was chosen?

Mr Correll—There was only one model developed, which was developed by Econtech. The estimates that were used to put into that model, if we are talking about the total—

Senator GEORGE CAMPBELL—Sorry—this did not go to open tender? It was given straight to Econtech to do the modelling, was it?

Mr Correll—A model was developed which basically projects the flow of job seekers through the active participation model services, through the various streams of those services, and then projects the overall expenses that would flow out of that service. The modelling uses a number of parameter inputs, and one of those parameter inputs is the overall estimate of job seekers. The parameter of inputs that was used was based on the actual registered job seekers, as Mr Pratt has indicated.

Senator GEORGE CAMPBELL—At the time this was done, did the potential Job Network providers know of the break-up of the \$720,000? Were they aware of the 75-25 per cent break-up?

Mr Correll—Yes.

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—How were they made aware of that?

Mr Pratt—The information we published makes clear the numbers of job seekers around the country who are in the different allowance categories. The information is in fact very comprehensive.

Senator GEORGE CAMPBELL—That was published on your web site?

Mr Pratt—Yes, and that information was provided on a CD with the tender documents.

Senator GEORGE CAMPBELL—Were other government agencies consulted about the model and the modelling?

Mr Correll—Other government agencies were briefed on the model and it was presented to other government agencies for their information.

Senator GEORGE CAMPBELL—Did they raise any concerns about it?

Mr Correll—Not to my knowledge, no. Indeed, we made presentations to central agencies, particularly because of the financial implications, and received very positive reactions to the model.

Senator GEORGE CAMPBELL—At the last estimates, Mr Correll, you said that Econtech had specialist knowledge. What was their specialist knowledge?

Mr Correll—Econtech is a specialist labour market modelling organisation and has highly developed skills in that area. The people it employs are skilled in that area, and basically that is why they got the job of developing the model. The model has proven to be extremely robust. Indeed, we had it rechecked several months into the new active participation model operations and it was fully validated at that point. The model has been working excellently.

Senator GEORGE CAMPBELL—Econtech did not have any specialist knowledge about the labour market as such? It was just because of their specialist skills as a modeller and their being the Prime Minister's preferred modeller that they were selected?

Mr Correll—They were successful through a purchasing process for the work, but their skill is from their background and the work that they undertake. That is their specialist area of modelling.

Senator GEORGE CAMPBELL—I understand that and I have had experience with them in other areas. You made the reference to specialist knowledge. I am trying to establish whether that was specialist knowledge of economic modelling—which I think you are now saying it was—as opposed to specialist knowledge of the labour market.

Mr Correll—No. It was specialist knowledge of the labour market, but I think it would also be fair to say that their experience in working in modelling in the labour market also gives them a pretty good understanding of movements in the labour market.

Senator GEORGE CAMPBELL—Would they have specialist knowledge of the non-activity tested job seeker world?

Mr Correll—They would have an understanding in that area. I could not speak for Econtech in terms of their detailed appreciation of the non-activity tested area. The non-activity tested area is pretty straightforward because it simply relates to the income support system and the legislation which requires an activity test to be applied for certain categories of income support recipients.

Senator GEORGE CAMPBELL—You are aware that we have information from Centrelink and FaCS through an FOI that outlines their concerns—and in fact Prime Minister

and Cabinet concerns—about the number of job seekers that were really considered to be in the market.

Dr Boxall—We are not aware that Prime Minister and Cabinet had any concerns, Senator.

Senator GEORGE CAMPBELL—We will enlighten you in due course.

Mr Correll—We are aware that Prime Minister and Cabinet does not have concerns.

Senator GEORGE CAMPBELL—Perhaps we can go over those—

Senator Abetz—We have enlightened you, not the other way around.

Senator WEBBER—It is all a very enlightening experience.

Senator GEORGE CAMPBELL—It will be an enlightening experience, trust me. Maybe we can go to some of those issues and concerns that were raised, that have now proved to be correct and that were not taken on board. In a minute we have of 11 April, which was a FaCS ministerial submission, there were concerns raised that the ESC3 could not adequately support the long-term unemployed, that Centrelink still holds significant concern for the IT system and that JNM coverage appears to have been reduced with ESC3. Were you aware of these concerns at the time?

Dr Boxall—Is this an internal minute of FaCS?

Senator GEORGE CAMPBELL—It is a FaCS ministerial submission to the Minister for Family and Community Services. It is headed ‘Administration ESC3 Impact on FaCS portfolio’.

Dr Boxall—You would need to talk to FaCS about that, Senator, because that is a submission from the FaCS department to their minister.

Senator GEORGE CAMPBELL—No, I am asking you whether you were aware of their concerns.

Dr Boxall—I am not aware of that minute, and I am not aware of the content of that minute—

Senator GEORGE CAMPBELL—I am not asking you if you were aware of the minute, Dr Boxall; I am asking if you were aware of the concerns that were raised in the minute.

Mr Pratt—No, Senator, we were not aware of their concerns in this area. We do not have those concerns. We have excellent coverage through ESC3 around the country.

Senator GEORGE CAMPBELL—So you were not apprised of those concerns. Is that what you are saying?

Mr Correll—Correct, Senator. We were not aware of such concerns and would not see them as being valid concerns, based on the knowledge that we have.

Senator GEORGE CAMPBELL—From 30 May onwards, Mr Correll, we have a record of minutes and internal memos, et cetera, to the FaCS minister and adviser, stating that the DNA rate that was being recorded was problematic to say the least. In fact, Centrelink and FaCS are able to point to hard data that proves that the DNA rate was not reliable. What was DEWR’s view on FaCS’s and Centrelink’s concerns, and how were these acted upon?

Mr Correll—I cannot comment upon internal advice that is being provided within the FaCS portfolio, Senator.

Senator GEORGE CAMPBELL—You are saying you were not aware of them.

Dr Boxall—We are saying that we understand that that minute is from FaCS to their minister and their adviser. If they raised those concerns with FaCS, we have not seen any minutes released in the FOI that show where those concerns are raised with us.

Senator GEORGE CAMPBELL—We are essentially asking you if you were aware of the concerns—if they made the concerns known to you and whether or not you acted upon them.

Mr Pratt—In the context of the entire transition, we had concerns about the DNA—the ‘do not attend’—rate. You will recall, Senator, that this was the subject of much discussion at the last estimates hearings. Certainly, we talked about ‘do not attend’ rates between the organisations, but we are not privy to the advice that they provide to their minister.

Senator GEORGE CAMPBELL—And I am not raising that issue. I am not asking you whether you were privy to the advice that they brought to their minister. I am asking you: did they bring those concerns to you? If they did, did you act upon them?

Mr Pratt—We actually brought concerns on the ‘did not attend’ rate to them. We were certainly discussing with them issues to do with ‘did not attend’ rates.

Senator WEBBER—Did FaCS or Centrelink ever raise other concerns directly with DEWR, leaving aside the ‘did not attend’ rate?

Mr Correll—During the transition period, there was considerable dialogue between the department and Centrelink and FaCS. The key issue during that period was the attendance rates. I think we discussed that at length at the last hearing. There was extensive dialogue about analysing why the attendance rates had been as low as they had and also about taking action that would assist in improving those attendance rates. The department and Centrelink worked very closely together on a range of actions to improve attendance rates.

Senator GEORGE CAMPBELL—I will go through this minute. It states in the recommendations that you note the potential impact of ESC3 on FaCS portfolio programs. It went on, ‘All issues will require ongoing consultation with DEWR and monitoring.’ Then it sets out some of these things: IT integrity, vocational profiling transition arrangements, potential impact on personal support program, customer servicing, support for long-term unemployed and media implications.

Dr Boxall—It would be helpful if you told us who signed that minute.

Senator GEORGE CAMPBELL—It is signed by Barry Sandison, Assistant Secretary, Participation Strategies, FaCS.

Mr Correll—The department had ongoing and extensive dialogue with the Department of Family and Community Services in the development of the active participation model, its implementation, its transition and transition processes. So there was extensive contact through that period. We also have regular senior level meetings with the Department of Family and Community Services, where regular updates and progress with the active participation model

implementation are provided. I would have thought that there were numerous opportunities for those types of concerns to be expressed to the department, if they existed within FaCS.

Senator GEORGE CAMPBELL—So it is reasonable to assume that in that process they did raise those concerns?

Mr Correll—No, it is not reasonable to assume that at all.

Senator GEORGE CAMPBELL—Why not?

Dr Boxall—You need to ask FaCS that.

Senator GEORGE CAMPBELL—We will do that, but I am asking you.

Dr Boxall—We cannot speculate on why FaCS may or may not have raised something with us.

Senator GEORGE CAMPBELL—Did they raise it with you?

Dr Boxall—Mr Correll just answered that it is not reasonable to assume that they did.

Senator GEORGE CAMPBELL—Mr Correll also just said that there was a series of meetings that were going on with FaCS and Centrelink all through this period.

Mr Correll—And concerns in relation to vocational profiling, and those issues you listed were not mentioned.

Senator GEORGE CAMPBELL—None of those were mentioned at all?

Mr Correll—Not raised as issues of concern.

Senator WEBBER—Can I take it from what you are saying, Mr Correll and Dr Boxall, that FaCS are saying one thing to their minister about their concerns and they did not raise them with you? You are saying a completely different thing.

Dr Boxall—You cannot take that. We cannot be drawn into commenting on what FaCS may or may not have said to their minister. That is up to FaCS and the secretary of FaCS is accountable for that. I am sure that you and your colleagues can ask FaCS about it. Senator Campbell asked Mr Correll whether it was reasonable to assume that a list of concerns that Senator Campbell read out were raised with us and Mr Correll answered, ‘No, it is not reasonable to assume that.’ That is as far as we can go. We cannot be drawn into discussing what may or may not have happened within FaCS. The secretary of FaCS is clearly accountable for what occurred in the department.

Senator GEORGE CAMPBELL—With due respect, Dr Boxall, Mr Correll went further than that. He said that these concerns were not raised. He went beyond saying that it is not reasonable to assume.

Senator WEBBER—But FaCS are saying to their minister that they were.

Senator GEORGE CAMPBELL—But the head of FaCS, Mark Sullivan, has said that they told DEWR about these concerns.

Dr Boxall—Do you have any briefs or minutes in that FOI pack from the head of FaCS to DEWR on these matters?

Senator GEORGE CAMPBELL—Yes, we have a whole series of stuff.

Senator WEBBER—Dr Boxall, they were a lot more willing to release minutes to you than you were willing to release minutes to them.

Mr Boxall—Senator Webber, as a matter of fact we have not refused the release of any of this material.

Senator GEORGE CAMPBELL—I am told Dr Boxall and Mr Sullivan just made that statement next door in the FaCS estimates.

Dr Boxall—Senator Campbell, I asked you. It is not really my job to ask questions. But I inquired if you had—

Senator GEORGE CAMPBELL—If I can answer them, I will.

Senator WEBBER—Or he could take them on notice.

Senator Abetz—It is the only opportunity he gets—

Dr Boxall—Senator Campbell, I think it was fair to say that I inquired of you if there was a minute in your package from FaCS to DEWR on these matters. Senator Webber, just to be clear on this: the department has not refused to release these documents. This matter is being processed.

Senator GEORGE CAMPBELL—All I am saying to you, Dr Boxall, is that Mark Sullivan has just said in FaCS estimates that, in fact, they did tell DEWR of these concerns.

Mr Correll—Senator, there has been, and there continues to be on an ongoing basis, dialogue between the departments in relation to implementation of the active participation model and a whole range of things, but we are not privy to what was included in briefings in relation to the specific issues you mentioned in that listing. I am not aware of any formal documentation or advice that has come through from FaCS on that issue. But there was ongoing dialogue throughout the period of the development and the transition concerning the active participation model.

Senator GEORGE CAMPBELL—On 30 May, Mr Correll, FaCS informed their minister that DEWR had yet to provide information data to assist Centrelink identify which customers which should have intervention strategies applied, for example, at risk job seekers. What was the reason for the delay?

Mr Pratt—I am not sure what that is in reference to. It may be to do with a sample of job seekers who had not attended where we were going to provide advice to Centrelink on that, and had not happened at the time. Without more information I cannot clarify that.

Mr Correll—During the transition period we had extensive dialogue, for example, with Centrelink, and Family and Community Services were involved as well in issues associated with the information technology implementation. There was ongoing extensive dialogue in those sorts of areas and, indeed, very extensive collaborative work occurred between particularly Centrelink and the department in relation to working through the information technology issues during the transition period. That represented part of the ongoing dialogue process. We are aware of the issues and particularly issues in the early processes of transition that were impacting on Centrelink in the IT area, for example.

Senator GEORGE CAMPBELL—Mr Correll, we have discussed the IT system here on numerous occasions at past estimates. The impression we were given from you, and others at the table, was that it was going along hunky-dory and there were a few teething problems but, all in all, it was working very well and it would be up and running on 1 July. Yet, there is evidence provided to us from FaCS that in fact that was not the case at all. They said:

After seven weeks the IT system is not working at an acceptable level. It is now 11 weeks since ESC3 was introduced. There have been only two or three days where there has not been a system outage.

Mr Correll—As has been discussed at previous estimates hearings, during the transition period—particularly the period from April to June—there were teething problems with the system. That has been acknowledged. The system went in in full bore from the beginning of July last year and settled extremely quickly, within a six-week to seven-week period, which is well and truly within industry standards. The period I am talking about is the transition period in particular when there were teething difficulties. There was very collaboration to rectify those teething problems and get them bedded in quickly. The full implementation of the system from the beginning of July went exceedingly well within a rapid time frame.

Senator GEORGE CAMPBELL—Centrelink said this about the system:

The system has been built in a production environment whereby Centrelink is always at the end of the system development cycle. The nature of this environment presents high vulnerability and exposure for Centrelink. It is also a poor environment for fixing problems, resulting in high risk to users.

Was DEWR aware of Centrelink's opinions about the development process? Did it make them clear to you?

Mr Correll—I think the reference is in relation to the overall development platform. Yes, Centrelink had mentioned issues associated with the development platform to the department. As events have transpired, the development platform has shown itself to be extremely robust, processing millions of transactions every day. It has been highly successful for seven months now.

Senator GEORGE CAMPBELL—But these are issues that surrounded the implementation of the IT system. We were not made aware during the Senate estimates process that there were concerns or difficulties to the extent that has been identified in these documents through the FOI. We asked a consistent series of questions about the system at that time because we knew it was going through serious problems.

Mr Correll—We indicated that there were teething problems during the initial transition period. We also indicated that the system went in extremely successfully, with the full implementation from July.

Senator WEBBER—Dr Boxall, you were saying before that you are still going through the process with the FOI application. Do you have an idea as to when that will be completed?

Dr Boxall—I cannot give a date, but it is going through the process. There are various stages in the process and it is being followed, consistent with the FOI Act. Indeed, I am advised that the ball is currently in Mr Albanese's court.

Senator WEBBER—Indeed. That is an issue I will raise with him. In an article in the *Sunday Herald Sun* entitled ‘Thousands set to lose jobs benefit’ it is stated:

The Federal Government is writing to more than 700,000 claimants to remind them they must submit their resume to a central job-matching database and attend job interviews when they are offered.

More than 300,000 have been contacted so far and 84,000 of those have not reported for interviews.

Cutting the benefit to all 84,000 would save the Government about \$1 billion a year.

Who was responsible for placing this story and one like it in the *Sunday Telegraph*?

Dr Boxall—Is that a question for us, Senator?

Senator WEBBER—Yes.

Dr Boxall—I have no idea.

Senator WEBBER—You have no idea; it just appeared?

Senator GEORGE CAMPBELL—We didn’t have the information, so it wasn’t us!

Senator WEBBER—It wasn’t us; we didn’t do it!

Senator Abetz—I suggest, rather than asking questions like that, that you specify the question and ask whether the department was responsible for placing the article. Asking who was responsible for placing the article ought to be directed to the newspaper, not the department.

Senator WEBBER—All right. We will do it this way, then: did the department provide the minister with a brief using those figures—yes or no?

Mr Correll—Not that I am aware of.

Senator GEORGE CAMPBELL—Were you familiar with the articles at the time?

Mr Correll—We would have seen the articles at the time. What was the date of this article?

Senator GEORGE CAMPBELL—I think it was 29 June.

Senator WEBBER—Yes, it was 29 June.

Mr Correll—Obviously, we would have seen those articles at that time.

Senator GEORGE CAMPBELL—If the figures were incorrect, would you have advised the minister?

Mr Pratt—Conceivably, the figures may well have been correct at that point in time.

Senator WEBBER—They just were not figures provided by you?

Mr Pratt—I have no recollection of us briefing ministers on that, so I do not know how those figures got into that article.

Senator GEORGE CAMPBELL—Were those figures in fact correct?

Mr Pratt—I do not know. At a point in time undoubtedly there would have been 84,000 people who had not attended an appointment and had not given an adequate reason to their Job Network member, and that may have happened many times over the course of the

implementation of the third contract. But I have no knowledge of how that information got into that article.

Senator GEORGE CAMPBELL—I understand that, but I am not so concerned about that aspect of it. What I am asking is: are the figures correct? If you cannot answer that now, can you take it on notice?

Mr Correll—We will have to take that on notice.

Senator GEORGE CAMPBELL—Can you have a look at that period and see whether the figures quoted in the article correspond with your record for that period?

Mr Correll—We will take that on notice.

Senator WEBBER—A figure of 700,000 was mentioned. If that is correct perhaps you can let us know whether those 700,000 were all deemed or not deemed to be activity tested.

Mr Pratt—I think I can answer that now. I think we testified about this in the last estimates hearing. At the beginning of the transition we knew that there were 720,000-odd job seekers on the register who needed to transfer between one contract and the other. We sent letters to those job seekers to assist them to make the connection with their new Job Network member, so that figure is about right. That is a well-known figure.

Senator WEBBER—There is a claim that 300,000 have been contacted so far. Would that 300,000 be deemed to be activity tested?

Mr Correll—I think we should take that on notice. I would rather see the article first. I will then be able to comment on the validity of the figures from that article.

Senator WEBBER—That is fair enough. Perhaps you could also take on notice how many of the 84,000 mentioned in the article were actually on benefit and how many of them were deemed to be activity tested.

Mr Correll—We will take that on notice.

Senator WEBBER—The minister was also quoted in the media that day as saying that the new system would:

... save taxpayers hundreds of millions and force tens of thousands off benefits.

Did the department provide a brief on how many people they believed would lose their benefits from the new system?

Mr Correll—I think we would have to take that on notice. Again, you are talking about a June last year time frame.

Senator Abetz—When you say ‘that day’ do you mean the same day as the article appeared?

Senator WEBBER—Yes. Mr Pratt, are you able to tell us now exactly how many people have been forced off benefits?

Mr Pratt—You would need to ask Centrelink or FaCS that question.

Senator Abetz—It really depends on your approach as to whether you say people have been forced off or whether people have simply been required to comply with the

requirements. I think there is a great difference. You will have to ask FaCS the question in any event, but I do not think that sort of language necessarily assists.

Senator WEBBER—Except that it is the language that the minister used in the media:
... save taxpayers hundreds of millions and force tens of thousands off benefits.

It is not my approach; it is the minister's approach.

Senator Abetz—It is the newspaper's approach.

Senator WEBBER—It is a direct quote.

Senator Abetz—I would like to see that.

Senator WEBBER—Fair enough. Around what date did the department start planning to inject funds into the Job Network?

Mr Correll—We didn't.

Senator WEBBER—You didn't?

Mr Correll—No.

Senator WEBBER—So it just happened; there was no plan?

Mr Correll—There was no injection of funds. There has been no change to the overall forward estimates in relation to Job Network.

Senator WEBBER—Is the department aware that on 3 July last year, FaCS figures show that there were only 521,000 activity tested people and 169,000 non-activity tested?

Mr Pratt—Those figures are not quite right. At any given time there is between 620,000 and 640,000 on newstart allowance and youth allowance, and it fluctuates across the year based on a variety of variables. At any given point in time 30,000 to 40,000 of those people might be participating in something like the personal support program or disability employment assistance. At any point in time you might find that there are 80,000 newstart allowance and youth allowance recipients who are exempt for a short period of time for some reason—they may be ill—so it is not correct to say that there is only 520,000 available for Job Network.

Senator WEBBER—Given that you say the forward estimates remain the same for funding for the Job Network, when did the department decide to bring forward the payments to providers?

Mr Correll—When we say 'bring forward the payments', a decision was made to change the trigger point for payment, based on the experience with very low attendance rates. The trigger point for payments for a number of the service contacts had been set up and developed within the system to coincide with the commencement of the job seeker and their attendance at an appointment. When there were high nonattendance rates it meant a considerable amount of work was being done that was effectively unfunded, and that was based on the trigger point. Effectively, the trigger point for the payments was moved to allow for the fact that the nonattendance rates had been much higher than anyone had anticipated. That is an issue that we discussed at some length at the last hearings.

Senator WEBBER—To refresh my memory, what is the trigger point for payment now?

Mr Pratt—At the beginning of each quarter we make a payment to the Job Network member of the expected number of vocational profiles and contacts which will occur across that quarter based on their business share. That is paid at the beginning of each quarter. That is the trigger point.

Senator WEBBER—Does the department regularly provide Job Network providers with figures of the number of activity and non-activity tested people in the Job Network?

Mr Pratt—The information we have on that is periodically provided to the Job Network. I could not tell you when the latest update on that was, but of course each Job Network member knows how many people are on their caseload through our system and they would be able to identify the different types of job seekers.

Senator WEBBER—But it is talking about the general pool rather than their specific caseload.

Mr Pratt—Certainly the advice in the tender process and the revised estimates which went out in April last year are examples of the information we provide to them. Of course, Job Network members, like anyone, have access to the information that FaCS puts out on allowance, pension and other recipient numbers. Combined with their own knowledge of their caseloads, they have a pretty good idea of what they are dealing with.

Senator WEBBER—When the decision was first taken to change the trigger point, bring forward payments or whatever, that put an extra \$30 million into the network?

Mr Correll—No, the change to the trigger point did not result in any change to estimates, because the estimates were predicated on service fees being paid for services provided. The fact that there were very low attendance rates had not been modelled for—no-one could anticipate that—therefore, there was no effective change to estimates at all out of the change to the trigger point.

Senator WEBBER—I know we have been over some of this ground before, but did the poor attendance rate and therefore the need to change the trigger point lead to any Job Network providers feeling financial stress?

Mr Pratt—I suspect it led to most Job Network members feeling the opposite.

Proceedings suspended from 10.49 a.m. to 11.12 a.m.

CHAIR—We are still considering issues related to outcome 1.

Senator WEBBER—In an article in the *Australian* on 11 July there was a claim that 70 per cent of job seekers were failing to turn up to meetings with their Job Network provider. Was that figure accurate and did the department provide that figure to the newspaper?

Mr Correll—Again, we would want to take on notice a press report of any figures to validate whether those figures are accurate at any point in time.

Mr Pratt—Across the transition period the ‘did not attend’ rate went up and down from 60 to 70 per cent. We do not know what gets into the *Australian* and what the *Australian* reports.

Senator WEBBER—Seven days later, a joint ministerial submission to the FaCS Centrelink ministers, cc-ed to the Prime Minister, stated:

About 80 per cent of activity tested job seekers eventually, perhaps after several reschedules, attend an appointment or become inactive or exempt. The remaining 20 per cent will include those who should not be receiving payments and more vulnerable job seekers who have difficulty complying, e.g. indigenous and young people.

So we have a press report saying that—and I accept what you say—about 70 per cent of people do not turn up and a joint submission saying that 80 per cent of people do turn up.

Mr Pratt—They are completely consistent figures. You have ‘do not attend’ rates to job seekers initial appointments. Then the Job Network member and Centrelink go to a great deal of effort to get the job seeker to turn up, including rescheduling appointments and rescheduling, potentially, interviews with Centrelink and, ultimately, as the report indicates, 80 per cent of job seekers attend, become exempt or go off benefit. This is the nature of the issue that the Job Network members faced at that time. They had to do enormous amounts of work to get these job seekers in.

Senator GEORGE CAMPBELL—Mr Correll, Robert Williams wrote in an internal email from Centrelink to FaCS:

I think we need to bring out the fact that there are only perhaps 500K customers who can be compelled to come in. The rest are either beneficiaries, exempt from the activity test or non-beneficiaries ... The underlying issue is that, unless we differentiate the two groups, our compliance could be measured unfairly against a turn-up rate that can never be achieved.

I understand Mr Williams is the main liaison person between Centrelink and DEWR. Was DEWR aware of these concerns?

Mr Correll—I would not have been aware of that internal note from the officer concerned, but there was ongoing dialogue between Centrelink and us, certainly looking at attendance rates. Clearly, the issues that you focus on are both the activity tested and non-activity tested groups of job seekers where the circumstances are different in relation to obligations and compliance action that can be taken by Centrelink. So, yes, we would have been aware of those issues but, no, I am not aware of specific memos going on internally within Centrelink.

Senator GEORGE CAMPBELL—Mr Correll, isn't it true that FaCS raised concerns about the pool of activity tested job seekers and the basis of your modelling as early as July?

Mr Correll—We have been through this at some length. There was nothing wrong with the modelling. The fact that at any point in time some job seekers who are on activity tested allowances are exempt from the activity test for a short period of time does not actually affect the integrity of the modelling or the numbers of job seekers who are available to be assisted by the Job Network. As I explained before, for the Job Network at any given time there is probably between 580,000 and 600,000 job seekers on newstart allowance or youth allowance, some of whom may be exempt for a period of time. It is like an employee: the employee may have a week's sick leave, but that does not mean that they are suddenly no longer an employee of the company. On top of that you have 200,000 job seekers who are on non-activity tested payments or who are not on allowance who are fully eligible for Job Network services. All of those job seekers are available to the Job Network and to date they have already registered 807,000 of them.

Senator GEORGE CAMPBELL—Isn't it true that FaCS raised concerns about the pool of activity tested job seekers and the basis of the modelling as early as July? Is that true or not? I am not questioning the veracity of the modelling. Did they raise concerns about the modelling?

Mr Pratt—We were in constant dialogue with FaCS and Centrelink about everything to do with the implementation of the third contract. There may have been discussions about numbers, but, as I said before, do not forget we share the same register.

Senator GEORGE CAMPBELL—Is it true that the DNA rate varied greatly over this period?

Mr Pratt—In the early months of the implementation of ESC3 the DNA rate varied between 60 per cent and 70 per cent. As the new arrangements bedded in and the intended streamlined referral arrangements kicked in clients referred through those mechanisms attended at much higher rates.

Senator GEORGE CAMPBELL—Would it be true to say that the modelling of 700,000 was incorrect and that the market was more around 500,000?

Mr Pratt—Absolutely incorrect. The modelling was accurate.

Senator GEORGE CAMPBELL—You say it was accurate, but our records show that in a phone hook-up discussion between DEWR and FaCS on 26 August 2003 there was agreement that there were 633,000 job seekers on newstart and youth allowances, of which 63,000 were not in the Job Network. Doesn't that in fact make a pool of 570,000?

Mr Pratt—No, Senator. At that stage they had not yet got into the Job Network. The transition process saw taking all those job seekers under the previous arrangements and connecting them into the new arrangements, so at the beginning of the transition no job seekers were in the active caseload.

Senator GEORGE CAMPBELL—At what point in time did you reach 700,000?

Mr Pratt—We would have hit 700,000-720,000 probably—again, I will clarify this if my recollection is out—around July-August.

Mr Correll—Senator, I am not clear that I understand your concerns in this area. Even if those issues had been raised at that time, the bottom line is that the total active caseload is 795,000 today. There is no question about there being low numbers below the estimate. The active caseload today is, in fact, higher than the estimates at the time of the tender process. Certainly one thing that was a uniform focus across the three agencies—Centrelink, FaCS and ourselves—during the transition period was the high nonattendance rates, and there was extensive work and extensive analysis between the three agencies at that time to identify why it was that the attendance rate was so low for the interviews and what could be done to improve the attendance rates. Certainly in that context you are looking at the issue of activity tested versus non-activity tested job seekers because the activity tested group had certain obligations and different compliance principles that are followed by Centrelink and different compliance rules. There is no question about any concerns about the total size of the caseload. That size is now just below 800,000, as Mr Pratt has indicated earlier.

Senator GEORGE CAMPBELL—That may well be the case, Mr Correll. I notice that employment rates are creeping up again so, of course, there would be more people coming into the loop. But your minister in early July was saying there were 700,000-plus job seekers in the system. These figures clearly demonstrate that that was not correct; that, in fact, there were 570,000 job seekers.

Mr Correll—Absolutely not. The figure you are referring to there is the number of activity tested job seekers in the system at that point in time.

Senator GEORGE CAMPBELL—At that point in time. But your minister was saying there were over 700,000 at that point in time.

Mr Correll—Yes, but the minister was referring to the full active caseload, not to the number of activity tested job seekers alone. The full active caseload for Job Network is not just the activity tested group.

Senator GEORGE CAMPBELL—Robert Williams says in the memo:

I think we need to bring out the fact that there are only perhaps 500K customers who can be compelled to come in. The rest are either beneficiaries, exempt from the activity test or non-beneficiaries. The DNA rate would be expected to be much higher for the volunteers. The underlying issue is that, unless we differentiate the two groups, our compliance could be measured unfairly against a turn-up rate that can never be achieved.

Mr Pratt—There is no actual connection between the number of job seekers who can be compelled at a point in time, because the total number is much higher than that, and the number of job seekers who are available for the Job Network to work with. I may have mentioned this before, but since the beginning Job Network has always serviced job seekers who are on non-activity tested allowances and non-allowance youth who are fully eligible for Job Network services, and they count to the caseload.

Senator GEORGE CAMPBELL—Let us set aside the dispute between what the figures are and take your statement that there were then 700,000 people.

Mr Correll—Yes, there were.

Senator GEORGE CAMPBELL—And that there are now 800,000. So there are more people in the system now than what you anticipated?

Mr Correll—Yes, but I would emphasise that that is because of the priority of the participation agenda. We are attempting to increase labour market participation rates for key target groups. We are trying to bring those groups into the services of Job Network, groups which have always been eligible for services from Job Network.

Senator GEORGE CAMPBELL—Why then did the minister, in his speech to NESA on 22 August, guarantee them the payment of \$670 million? If the people were in the system then there should have been no necessity to guarantee the payment.

Mr Pratt—The minister did not guarantee them the payment—that they would get paid the money that was appropriated for Job Network services, irrespective of whether they got hold of job seekers. What he was talking about was that the Job Network members would be paid for the work that they had done. At the last estimates I recall pointing out that, of the money which was appropriated to Job Network, 50 per cent of it is not paid until a Job Network

member is able to place a job seeker in a job or they acquire an outcome. Thirty-five per cent of the funding relates to when they provide a job seeker with Job Search training or intensive support services. That has not changed.

Senator GEORGE CAMPBELL—But, as I understood it, he indicated to them that they would receive the full allocation—the \$670 million.

Mr Pratt—He said that the money which was appropriated to assist job seekers would be available for them to assist job seekers.

Mr Correll—That was not an issue about case load; that was an issue about attendance rates.

Senator GEORGE CAMPBELL—It was an issue about providers pulling out of the system because the figures they were basing them on were way below what they had been given.

Mr Correll—No, Senator. It was an issue of attendance rates and the trigger point for the payment. Effectively, Job Network members were doing extensive work to call job seekers in to attend interviews and, because of the low attendance rates, they were not being paid for it. That was the fundamental issue that we went through at length at the last hearing.

Senator GEORGE CAMPBELL—But isn't it true that a number of Job Network providers threatened to pull out of the system because of the low rates of uptake?

Mr Correll—I am not aware that that is true.

Senator GEORGE CAMPBELL—I thought that was a substantial part of the discussions. In fact, the minister was very late getting to the dinner because they were in negotiations over the additional funding at the NESAs conference.

Mr Correll—There was no additional funding; there was a change to the trigger point for payment.

Senator GEORGE CAMPBELL—However we so define it, there was an additional \$670 million.

Mr Pratt—There was no additional funding. The minister was talking about the money which was originally appropriated for Job Network services.

Senator GEORGE CAMPBELL—Exactly.

Mr Pratt—There has been no change to the appropriation other than through the additional estimate.

Senator GEORGE CAMPBELL—But, as I understand it, based on the figures that were available at that time, there would have been a shortfall of \$670 million most of the providers would have received.

Mr Pratt—No.

Senator GEORGE CAMPBELL—So this was whole myth?

Mr Pratt—Yes. If that is what is being presented to you, it is completely incorrect.

Senator WEBBER—Going back to the low attendance rates for a moment, is the low attendance rate an effect of having all sorts of people in there who cannot be compelled to attend?

Mr Pratt—No. There are different attendance rates for different types of job seekers, that is true.

Senator WEBBER—What happens to a person who cannot be compelled to attend or chooses not to?

Mr Pratt—They can choose to not receive Job Network services; they are volunteers.

Senator WEBBER—Whose idea was it to set up the interdepartmental committee on Job Network?

Mr Correll—It was convened by the Department of the Prime Minister and Cabinet.

Senator WEBBER—How and when was it formed?

Mr Correll—We would need to check the precise dates, but it was around late July. You may need to check that with the convenors, the Department of the Prime Minister and Cabinet.

Senator WEBBER—Does it have any specific aims?

Mr Correll—The primary issue was the attendance rate question, why the attendance rates had been low.

Senator WEBBER—Was there any documentation inviting particular departmental officers to join the committee? If so, can we have a copy?

Mr Correll—I think you should approach the relevant convening agency, the Department of the Prime Minister and Cabinet, for that documentation.

Senator WEBBER—Is anyone aware of whether there was any reaction from committee members to Minister Brough's announcement at the NESAC conference that all the money promised to them would be paid?

Mr Pratt—The minister did not promise that.

Senator WEBBER—Is the committee still in existence?

Mr Correll—No.

Senator WEBBER—What were the conclusions of the committee?

Mr Correll—The committee looked at issues of the attendance rates as the active participation model came into operation. The attendance rates had always been an issue for transitional job seekers—that is, the group of job seekers registered at 30 June. The attendance rate problem had always been associated with that group. A key feature of the active participation model was looking at gaining greater engagement with those groups of job seekers. The new registrant job seekers come in under the new streamlined referral arrangements, which connect them to Job Network members much more quickly and which have seen a much higher attendance rate. The issues really had moved on by around the September-October time frame.

Senator WEBBER—Were any discussions held with PM&C, FaCS or Centrelink regarding the income guarantee?

Dr Boxall—Of unemployment benefit recipients?

Senator WEBBER—To providers.

Mr Correll—I am not aware of the term ‘income guarantee’.

Mr Pratt—If you are referring to the \$670 million, there was no guarantee.

Senator GEORGE CAMPBELL—Can you clear something up for me so that I understand clearly what you are saying? The commitment now to the providers is that they are guaranteed, what, all of that money including the \$670 million that was appropriated minus the outcome fees? Is that how it works?

Mr Pratt—No. The providers have contracts which specify the conditions under which they get payments for certain events, like outcomes, and they deliver certain services. There has been no change to those conditions. The minister was talking about ensuring that they got paid for the work that they were doing in chasing up job seekers and getting them onto the register, and that was achieved through the quarterly advance payment.

Senator GEORGE CAMPBELL—So there is no guarantee to the providers that they will get access to all the moneys that were appropriated?

Dr Boxall—There is no guarantee. The issue is that the providers are under contract; if they deliver outcomes they get paid, and if they do not they do not get paid. There is just no guarantee. I am not sure where this is coming from.

Senator GEORGE CAMPBELL—It was widely reported around 22 August.

Dr Boxall—It must be incorrect because there is simply no guarantee. It is an issue that—

Senator GEORGE CAMPBELL—I understand the minister made the guarantee to the conference.

Dr Boxall—Mr Pratt has just testified that that was not the case. The department’s understanding is what Mr Pratt just testified, which is that the minister was making the point that the moneys appropriated would be available in the event that they delivered the outcomes.

Senator GEORGE CAMPBELL—A transcript from an ABC radio program states:

The Employment Services Minister Mal Brough is guaranteeing the Government will spend the two and half billion dollars it budgeted for the Job Network over three years.

Dr Boxall—We cannot comment on transcripts and media reports and so on. We are here from the department’s point of view to testify to facts. The fact is that there is no guarantee. If Job Network providers achieve outcomes they will be paid according to the contract. If they do not achieve outcomes they will not be paid according to the contract.

Senator GEORGE CAMPBELL—You are saying that the cost to the Commonwealth could be less than the \$2.5 billion.

Dr Boxall—It depends on the outcomes. Like any estimate of a large administered item, the department makes an assessment and that is checked with Finance as part of the budget

process and an estimate is put in the budget documents. Indeed, there are finetunings to those estimates in additional estimates and elsewhere as time goes on. It is a bit like age pensions, for example. FaCS has to make an estimate of what the payments will be for age pensions. If there are more people eligible the payments will be slightly higher. If there are fewer people eligible they will be slightly lower.

Mr Pratt—Already the Job Network members outcome performance is exceeding the performance as at the same time in the previous year. If their outcome performance continues at such high rates it is conceivable that we may need to go back to government for extra money because more people are getting placed in jobs by the Job Network. The early performance of the Job Network, despite the difficulties with attendance rates, has been excellent. As Dr Boxall points out, what we have are estimates. If the Job Network members were to stop placing people, we would not spend all the money. But the indications are that they are placing more people than they used to place, so we are pretty pleased with that.

Dr Boxall—It is a demand driven program. The estimate goes to the forecast of what the demand will be—that is, the forecast of what will be the number of placements, the payment for the placements. In the event that those forecasts need finetuning in the estimates, they are finetuned.

Senator GEORGE CAMPBELL—I understand that, Dr Boxall. I understand how the system works. I understand the demand was lower in the initial stages than people anticipated. It has been clearly reported that the minister made a commitment at the NESAs conference that they would get access to the full \$2.5 billion. You are saying that is not true. Mr Pratt has said that is not true—that commitment was never made. I have to accept your word for it. But we will proceed with other sources of advice as to what exactly was said because there are people who are absolutely certain that a commitment was made. They happened to be in the room when the minister made it.

Mr Pratt—At the last estimates hearing we tabled the transcript of the minister's speech.

Senator GEORGE CAMPBELL—This was not made in the speech. This was made in the room when negotiations were going on, before people pulled out of the system. I do not think we can pursue that issue any further at this stage. I want to go back to the quoted figure of 60,000 job seekers who did not attend for an interview. I understand from *Hansard* that we are talking about 60,000 job seekers who had not attended their interviews as at August 2003; is that correct?

Mr Pratt—It was a sample of job seekers who at that time had not attended an appointment with their Job Network member and had not provided a valid reason to their Job Network member for that non-attendance.

Senator GEORGE CAMPBELL—I have information that we obtained under freedom of information legislation, an email sent by Peta Winzar on 26 August on points for a possible cabinet discussion on ESC3. It states:

DEWR advise that as at last Friday there were 60,000 activity tested job seekers who had not attended a vocational profiling interview and who did not have a reasonable excuse.

It went on to state:

DEWR do not know the characteristics of the group.

How is it that DEWR did not know the characteristics of the 60,000?

Mr Pratt—They are two different things. What we were saying was that they had not attended an appointment with their Job Network member and had not provided to their Job Network member an appropriate reason for that. What a job seeker then says to Centrelink at a later stage is completely beyond the knowledge or control of the Job Network.

Senator GEORGE CAMPBELL—I refer to the analysis obtained under FOI. Can you explain to me why this group would be described, as at 12 September 2003, as having a group of 2,109 job seekers whose status has not been advised at Centrelink by DEWR on the ‘did not attend’ list?

Mr Pratt—There had been no report to Centrelink at that stage as to what had happened with those job seekers. I think the relevant thing to take from that part of the paper is that at that time—nearly a month after the data was provided to Centrelink—of the 59,000 or 60,000, 19,000 had a vocational profile, which means that for a number of reasons 40,000 had not got a vocational profile. That was the issue that the Job Network was having to deal with. It was the fact that people were not attending at the rate that they should have been.

Senator GEORGE CAMPBELL—I understand that in the analysis of the list there were 1,700 who were exempt, almost 2,000 who were in another activity, and a further 2,800 who were exempt or in another activity and did not need further contact. How is it possible that so many people who were exempted or in another activity were included in the 60,000 job seekers who did not attend?

Mr Pratt—Let me explain the phenomenon to you. I mentioned this at the last estimates hearing. A Job Network member may call a job seeker in to have an appointment. On the system the job seeker is eligible and is subject to the activity test at that point in time. So they might send them a letter saying, ‘Come in for an appointment.’ Across the course of the next week the job seeker may become sick or get a job, or something else may happen to them, and they may over the course of the next fortnight advise Centrelink of that, which will then put that information on the system. At that stage they become exempt, for that reason. But at the time of the Job Network member’s attempted call-in they were actually eligible. It is a timing thing.

Senator GEORGE CAMPBELL—I understand what you are saying. I want to refer to another email, which is dated 27 August and was sent from Centrelink’s Robert Williams to a number of recipients. It states:

DEWR are still saying that 60,000 job seekers have not turned up for an interview in JN and have not been suspended etc—last week this figure was 100,000. They have no idea why this is the case, but still make the assertion that these people do not have a reasonable excuse which clearly they do not know.

Mr Correll—We cannot comment on internal communications from particular Centrelink officers. What we can say, quite categorically, is that the figure of 60,000 was totally validated by FaCS and us. There is no question about that. That group was used as a basis for analysing what was happening due to the high non-attendance rates. I think Mr Pratt has mentioned that. The key issue with that group was that that snapshot of that group of 60,000 was taken on 22 August. By 12 September, of that group of 60,000 there were still some

40,000 who did not have a vocational profile on the system, which meant that they had not attended their interviews. The analysis of that group was all about attempting to understand the issue of the low attendance rates. There was no question of the composition of that group. It is absolutely agreed between the Department of Family and Community Services and DEWR, and it is not a matter in dispute.

Senator GEORGE CAMPBELL—But, according to the information we have, there were not 60,000 in the group.

Mr Boxall—But, Senator Campbell, there were 60,000 in the group. That is the figure that was agreed on between FACS and DEWR, and you have this, I think, under the FOI release. It is 59,418, to be precise. That was tabled at the last estimates by Centrelink or FaCS.

Senator GEORGE CAMPBELL—And you are saying that there were 60,000 in that group at 22 August.

Dr Boxall—We are saying and Mr Pratt has been saying and the department's position is—and there was a document tabled I think at the last Senate estimates by either Centrelink or FaCS which shows—that the department of employment and FaCS are in complete agreement on the 60,000, or the 59,418. It has been forensically analysed down to the ones that had a vocational profile, the ones that didn't and the various characteristics of those that did not.

Senator GEORGE CAMPBELL—Have you got the document there? Can I have a quick look at it?

Mr Pratt—We believe that this paper was tabled by Centrelink at the last hearings and is also in the FOI papers. We are happy to give you a copy.

Senator GEORGE CAMPBELL—Can I have a look at it?

Mr Pratt—Yes.

Senator GEORGE CAMPBELL—Just going back to the minister's speech, he says in part:

Let's talk about the amount of money that is available to you that underpins the services that are being provided.

Because as you know, the appropriations for 2003 and 2004 and in the out years are considerably greater than they were in years gone by. But the reality is in July and August of this year, you have not received the money that was forecast.

I made a commitment to the CEOs in late June, as I pulled you all together at the commencement of this July 1 Active Participation Model, and gave a commitment, a commitment that the flows of income that were projected on to the KPMG model and the Econtech model would flow to you. That hasn't occurred. But that will occur, in full.

Mr Pratt—That is right. That does not say, 'We are going to give you \$670 million.'

Senator GEORGE CAMPBELL—It says:

The \$670 million is the money that goes to you to underpin the services that you provide, the personnel that you provide, the offices that you provide, the technology that you provide.

And that money is rightfully and will be spent on job seekers and you will be the ones spending it. I am committed to ensuring that that money is spent year in, year out on Australia's unemployed.

Mr Pratt—That is correct. That is exactly what the minister said and the quote ‘a commitment that the flows of income that were projected under the models would flow to you’ is the issue. The models are based around job seekers getting intensive support services, whether job search training or customised assistance, and then later on getting outcomes and those generating the payments.

Senator GEORGE CAMPBELL—The clear inference in that speech is that the \$2.5 million will go to them.

Senator Abetz—I think we have been over this ground. You want to put one spin on it.

Senator GEORGE CAMPBELL—They are our questions. You may not be happy with them, but we are happy with them and we will continue to ask them.

Senator Abetz—The minister has indicated through the department what is clear on the face of it. We can keep going around in circles on it, but I think it has been pretty well done to death.

Whilst we are in a pregnant pause about what the minister said or did not say, I now have in front of me the article of the *Sunday Herald Sun* of 29 June 2003. It is quite clear from the article that the words ‘force tens of thousands off benefits’ were not in quotation marks and that it was, if you like, a paraphrase by the journalist, Mr Simon Kearney. Before the morning adjournment I might have been the only one misled, but I thought there was the suggestion that that was a direct quote from the minister. It is quite clear from both the Simon Kearney articles—one in the *Sunday Herald Sun* and the other in the *Sunday Mail*—that that is a paraphrase by Mr Kearney and the words were not attributed to Mr Brough in inverted commas.

Senator GEORGE CAMPBELL—Mr Brough did not say the review could take tens of thousands off benefits—that ‘this will shake the tree’?

Senator Abetz—The words ‘tens of thousands off benefits’ is part of the paraphrase, and you are once again misleading—deliberately now, because I have brought it to your attention. What he said was: ‘This will shake the tree like it has never been shaken before.’ That is what the minister said. But the previous para that you quoted, which ran into the next para, is not in inverted commas. You must know the difference between that.

Senator GEORGE CAMPBELL—Yes, I do.

Senator Abetz—To try to run those two together and say that is what the minister said is nothing short of mischievous, if not deliberately trying to mislead.

Senator GEORGE CAMPBELL—I am sorry, Senator Abetz, I did not. I asked you: are those words not attributed to the minister? That was the question I asked you, and if you had not been so focused on trying to have a go at me you might have listened to what I said and been able to respond appropriately.

Senator Abetz—The Labor senators are the ones trying to have a go at the minister and mischievously suggest that certain words were a direct quote from the minister.

Senator GEORGE CAMPBELL—We are not trying to have a go at the minister. We are trying to get to the bottom of what has been a very messy set of circumstances.

Senator Abetz—The record, now that I have it, shows that it was not a direct quote from the minister. It is important that the *Hansard* record on this be cleared up lest the mischief from before morning tea becomes accepted as fact, which it clearly is not.

Senator GEORGE CAMPBELL—Did the minister repudiate the articles?

Senator Abetz—I am not aware of that. What I am in a position to say is that the assertion that the minister said that, and that it was in inverted commas, is incorrect.

Senator GEORGE CAMPBELL—Has the minister repudiated the articles?

Senator Abetz—I do not know whether he has.

Senator GEORGE CAMPBELL—You quite often get paraphrased in newspaper articles, as you would well know.

Senator Abetz—And usually none of us bother to repudiate the paraphrases. Senator Campbell, I know that you have been quoted, especially in leadership disputes—

Senator GEORGE CAMPBELL—You may not, but if a journalist misquoted me or paraphrased me wrongly I would certainly be letting them know about it.

Senator Abetz—On each and every occasion?

Senator GEORGE CAMPBELL—On each and every occasion.

Senator Abetz—You would not be doing anything else. I suppose they ignore you most of the time—

Senator GEORGE CAMPBELL—No, they do not, because they very rarely ever do it.

Senator Abetz—so you would not be reported as often.

Senator GEORGE CAMPBELL—No, they do not.

Senator MARSHALL—Are you able to ascertain what the minister did in fact say?

Senator Abetz—No, I am not going to bother to. What is in inverted commas, the minister acknowledges; what is not in inverted commas cannot be attributed to the minister as though it were in inverted commas. That was the mischief that was suggested prior to the morning adjournment.

Senator MARSHALL—So the minister has confirmed that what is in inverted commas was in fact a direct quote from him?

Senator Abetz—Yes, that is right.

Senator MARSHALL—And he did not then go on, when you ascertained this with him, to repudiate the paraphrasing?

Senator Abetz—That is why his office brought it to my attention, that what was being asserted by Senator Webber was not in fact correct. When the assertion was made that the words ‘force tens of thousands off benefits’ were directly out of the minister’s mouth, I said—and the *Hansard* record will show this—‘I would like to see that.’ Surprisingly, I have not been shown the articles and, as a result, the minister’s office provided me with the articles which show quite clearly that it was not in inverted commas as has been asserted.

Senator MARSHALL—But they did not go on to—

Senator Abetz—That is a matter I would have thought was of some concern.

Senator MARSHALL—I would have thought that if they went to the trouble to do that, Minister—

Senator Abetz—You are doing a sterling effort in defending Senator Webber, but Senator Webber has stumbled, unfortunately—

Senator MARSHALL—they would have gone on to clarify with you exactly what the minister did or did not say.

Senator Abetz—you should not be taking on the role of defending her mischief making.

Senator GEORGE CAMPBELL—Tell him to stop butting in!

Senator JOHNSTON—Ask a question.

Senator Abetz—If you were to keep the questions flowing then you would not give me these opportunities, Senator Campbell.

Senator GEORGE CAMPBELL—If you watched your more experienced ministers, you would not open your mouth; you would let the questions flow.

Senator WEBBER—Dr Boxall, on 3 September Barry Sandison wrote in an e-mail that at a meeting you were also talking about Australians Working Together:

... as a bit of a saving grace in terms of the new world of job seekers to be engaged.

Would that be an accurate representation of your view?

Dr Boxall—I have no idea what you are talking about.

Senator WEBBER—So what is your view of Australians Working Together?

Dr Boxall—I do not give views; I am here to answer questions from the department on behalf of the minister on facts.

Senator WEBBER—So you would not have said this?

Dr Boxall—I did not say that. I have no idea what you are talking about. If you want to give me a copy of the e-mail, I will have a look at it.

Senator WEBBER—I am certainly happy to arrange for you to have a copy of the e-mail because it has been provided under freedom of information.

Dr Boxall—And just to repeat the earlier comment that has been made: the secretary of FaCS is responsible for what goes in FaCS and is held accountable; I am not.

Senator WEBBER—Indeed, but when they represent a view that you have told them it would interesting to know—

Dr Boxall—As a matter of fact, Senator Webber, I do not recall ever meeting Barry Sandison until I saw him in the room next door this morning.

Senator WEBBER—Is that right?

Dr Boxall—That is right.

Senator WEBBER—So you have never met him?

Dr Boxall—I did not say that; I said I do not recall having ever met him.

Senator WEBBER—You obviously make a much greater impression on him than he does on you, Dr Boxall.

Senator JOHNSTON—Is that a question?

Senator Abetz—No, it is another time filler. We do not have to be here.

Senator GEORGE CAMPBELL—Dr Boxall, the committee has no record of that document being tabled previously at an estimates hearing, so if you wish to table it—

Dr Boxall—No, we only provided it to you as a courtesy because we thought it had been tabled previously.

Mr Pratt—It had been previously tabled at the FaCS-Centrelink committee, and we discussed it at the last estimates.

Senator GEORGE CAMPBELL—So it was not at this committee. Do you wish to table it at this committee?

Dr Boxall—No, not unless it has been tabled at the other committee.

Senator GEORGE CAMPBELL—You just said it has been tabled at the other committee.

Dr Boxall—No, we said that we think it has been. We were being courteous to you in giving you a copy, but we are not tabling it.

Senator WEBBER—Earlier this morning there was some mention made of mobile phones. I would like to briefly explore the issue of the job seeker mobile phone trial, as announced by the minister on 6 February. As I understand it, Telstra is sponsoring the trial. Does that mean that Telstra is meeting all of the costs associated with the trial?

Ms Caldwell—That is correct.

Senator WEBBER—They are meeting all of the costs?

Ms Caldwell—Yes, they are funding the trial.

Senator WEBBER—This trial has been described as innovative. Has it ever been trialled before?

Mr Correll—Not by DEWR. I think in the past the department has looked at some aspects of the use of mobile phones. Certainly in the lead-up to the active participation model some work in this area was looked at. This is extremely innovative in terms of providing improved communication channels to job seekers. One of the outstanding learnings that has already emerged out of the active participation model is that the use of SMS messaging has been an enormous success with job seekers. Indeed, that form of communication channel results in better prospects for job seekers gaining employment outcomes because they get more rapid advice of job match opportunities. It has been that experience to date under the active participation model that has led to this trial. It holds significant opportunities for further reducing frictional unemployment through the active participation model.

Senator WEBBER—As far as you are aware, have any Job Network providers supplied mobile phones to job seekers since April 1998?

Ms Caldwell—Yes. Under the job seeker account, for example, Job Network members would be available to do limited arrangements at the local level. The trial is looking at systematising that.

Senator WEBBER—Sorry?

Ms Caldwell—The trial is looking at rolling out more broadly arrangements that are not simply one-off in nature. It is looking at how we could make this an ongoing arrangement that would be properly targeted to the best job seekers and use our better purchasing power across the board, as opposed to the one-off arrangements that individual Job Network members would be able to make on their own initiative.

Senator WEBBER—Way back in the old days when there was a CES, I seem to recall about 10 or 12 years ago—and correct me if I am wrong—that they utilised program moneys to supply mobile phones to job seekers.

Mr Correll—They would have been pretty clunky mobile phones then.

Senator WEBBER—No, they would have just been a lot bigger than what we have now. You would never lose them!

Mr Correll—I am not aware of that. SMS messaging certainly was not—

Senator WEBBER—No. I will concede that point. So it is the SMS messaging bit that is regarded as being innovative?

Ms Caldwell—As Mr Correll mentioned earlier, the trial looks at the totality of how we can bring together in the interests of reducing frictional unemployment the provision of the technology and the vacancy database and improve the penetration of a greater range of jobs from a much wider range of sources than in the past. The mobile phone, as the small piece of hardware that is available to the job seeker, is part of a much bigger fabric under the active participation model to bring together a greater range of opportunities that are helping more job seekers to get into work faster.

Senator WEBBER—The trial involves 200 job seekers. Is that correct?

Ms Caldwell—That is correct.

Senator WEBBER—How are they going to be selected?

Ms Caldwell—They are selected by participating Job Network members under the trial.

Senator WEBBER—The press release from the minister seems to indicate that Telstra will be supporting this selection process. How is that going to be arranged?

Ms Caldwell—Telstra is working with us in conversation with those Job Network members who are participating in the trial.

Senator WEBBER—When they are selected by the Job Network providers, what criteria are they using?

Ms Caldwell—Job Network members are identifying suitable job seekers. We are looking at a range of different disadvantaged groups and of job seekers who, in the view of the Job Network member, would primarily benefit from having access to the technology and are not currently able to access mobile phones and who satisfy the Job Network member that they

would take suitable care of and be diligent with it. It is also part of the trial that the job seeker is involved in using the mobile phone for the purpose of job seeking. That is one of the things that the trial will be testing, and the job seeker will be accounting back to the Job Network member about the use of the phone and any top-up of their initial credit on it.

Senator WEBBER—The trial is taking place in Liverpool, Fairfield and Canberra. Is that right?

Ms Caldwell—Yes, that is correct.

Senator WEBBER—Why those specific areas?

Ms Caldwell—We needed to find a location for this. There is no particular magic about those locations. They were nice representative locations. Liverpool, in particular, is quite a large area with a very diverse mix of job seekers who could well test it.

Senator WEBBER—In choosing those areas, for instance, did you look at mobile phone coverage or anything like that? There are parts of Perth—never mind huge parts of Western Australia—where you could not use that technology, because we do not have coverage. Was that taken into account?

Ms Caldwell—All those factors were taken into account in developing a trial that would give us the clearest view of the usefulness and optimal use of mobile phones in the future, again, against the primary criteria of what is going to work best to build on the already considerable early days results from this technology. As Mr Correll has said, SMS has proved to be punching well above its weight in terms of initial results from the Job Network under the active participation model. We are keen to do what we can to facilitate more job seekers getting access to mobile phones. Those particular locations were selected after considering a wide range of factors and how we could best and reasonably test that technology to build on those achievements.

Senator WEBBER—What methodology is going to be used to determine whether the trial is effective?

Ms Caldwell—We have an evaluation strategy that is available. We will be looking at three groups of comparative job seekers: those who were provided with a mobile phone under the trial; those who had pre-existing mobile phones available to them; and those who do not have a mobile phone available to them at all. We will be looking at usage, effectiveness and job placement outcomes for any differences between the groups. We will be looking at the usual criteria through number of referrals and outcomes that are achieved by those job seekers.

Senator WEBBER—What are the likely implications if the trial is deemed to be successful?

Ms Caldwell—We already know from our early administrative data that SMS methodology is only part of a broader range of changes under the active participation model to increase the vacancy penetration and timeliness of notification of job leads to job seekers. The trial will test whether and for what job seekers the mobile technology is the most effective, how materially it makes a difference to the success of their job seeking efforts, and how we and industry might want to target future deployment of mobile phones as one of the

various the innovative tools that are available under the active participation model to capitalise on the new architecture.

Senator WEBBER—Roughly, how soon after the three-month trial will the department be making a decision about whether to roll this out?

Mr Correll—This is really an issue of communicating to the industry the findings, because the job seeker account facility provides the capacity to enable a mobile phone to be purchased in this way for a job seeker. The experience we have had to date has shown that the use of SMS messaging and access to that form of communication significantly improves the likelihood of someone gaining a job. If that is underpinned by these formal trials now, we would want to communicate that widely to Job Network members so that they understand that, from an industry better practice point of view, there is an opportunity to utilise the job seeker account in a highly effective way here to achieve better employment outcomes for their job seekers.

Senator WEBBER—If the trial is as effective as we seem to think it will be, it will be legitimate as something that you could use your job seeker account on.

Mr Correll—It is legitimate now.

Senator WEBBER—It is already legitimate. So, potentially, any job seeker that has a job seeker account could therefore be supplied with a mobile phone.

Ms Caldwell—The benefit of the trial, Senator, is that working closely with industry as well as with the telecommunications provider allows us to demonstrate in fieldwork and in a measured way through the evaluation just what a positive difference it potentially makes. We are in a situation where we have the industry being able to point to fieldwork that has been properly evaluated and tested in real life in a rigorous way to say this is a good investment and use of the job seeker account. It is also a part of adding to industry best practice and knowledge and being able to demonstrate through a successful pilot project that this is a useful intervention.

Senator WEBBER—If we find that the provision of the mobile phone is a significant enhancement to a job seeker's ability to find a job, does the provision of a mobile phone to some job seekers and not others therefore create two different classes of unemployed people, particularly if you are unemployed in an area where mobile phones are not necessarily—

Ms Caldwell—The job seeker account is, of course, available to all eligible job seekers. There is a range of telecommunications networks to maximise coverage. The phones are just one way of tapping into the increased vacancy database that is available. Certainly by using the pilot we can encourage best practice using the money that is available through the existing job seeker account and targeting it. We will also learn if there are certain groups of job seekers for whom it works better or not. Our initial evaluation of this in-house, as Mr Correll said, certainly demonstrates to our satisfaction this is absolutely the right way forward. I do not accept that we will have two classes of job seekers as a result of this. In fact, what we will have is better use of the money that is available, based on fieldwork as well as our administrative data.

Senator WEBBER—But surely you would have two issues there. One of them is that, particularly in rural and remote areas but also in some areas of Perth, there is no coverage. So, if it is provided to job seekers in those areas, it is a complete waste of time and we should talk to the Job Network providers that are up to that. If we are saying that this is a significant enhancement or that we think it is going to be in them finding jobs, it is an enhancement those people are going to miss out on, so it will start to create some distinctions there. But also, does it lead to the case—

Mr Pratt—Senator, that is the glass is half empty argument, isn't it?

Ms Caldwell—Yes.

Senator WEBBER—that perhaps our way of assisting these people, when you add that to the web page stuff and what have you, may be an overreliance on the use of technology, rather than on direct interaction with these people?

Ms Caldwell—I think, as my colleague Mr Pratt was indicating, the fact that there may be pockets where mobile reception is not the optimum delivery mechanism is not something that we would use to deprive the rest of Australia from having access to the benefits of it. In addition to the other methodologies we have talked about, which are on the technological high end, if you like, job seekers can also ring in to IVR. They can make contact through a number of community access points. We have around 1,000 kiosks around Australia deployed both through Job Network members and in other locations available to them. We will also be looking at the phone trial in CDMA areas as well, which may go to the particular issue you have raised in terms of coverage of various networks.

Mr Correll—The key issue is that for many job seekers—often the most disadvantaged job seekers—one of the greatest barriers to a Job Network member helping them secure employment is communications. This is effectively a tool to support rapid communications to the job seeker. It is a tool from our experience to date that has an extremely strong take-up and positive reaction from the users—from the job seekers themselves—and an incredibly strong success rate. If that continues to be reflected through these trials, then it is clearly going to represent a key mechanism for communications that will help, in particular, those who are often the most disadvantaged in the labour market.

Senator WEBBER—If I accept what you are saying about the effectiveness we think this trial is going to have, in a way it still creates two categories of people, in that it is a form of assistance that may not necessarily be available to a certain category of job seekers that we already recognise as being particularly disadvantaged, and that is why you are either eligible for more money in their job seeker account—

Ms Caldwell—There are two important points to make. Using the CDMA network will provide us with 98 per cent geographical coverage of Australia. So we are looking at 98 per cent of job seekers potentially being better off. In terms of the questions: what about the other two per cent and is that a good reason not to proceed—

Senator WEBBER—I am not in any way questioning whether we proceed or not. I am just making the point that there are going to be categories of people who cannot use it. But the job seekers in those areas that are most remote and could potentially miss out also have access

to a whole range of other services that are available, including the flexibilities of access and service delivery in the more regional areas of Australia.

Mr Pratt—The job seeker account is the Job Network member's job seeker account, and there is funding in there which is credited for each job seeker who meets certain criteria. In other locations the interventions may be different. There will be some job seekers who do not need a mobile phone because they have got one. So we would not provide services of that sort to them. We would provide something else.

Senator WEBBER—That brings me to another point. Are the job seekers who already have a mobile phone—assuming this trial is successful—going to be eligible to have the costs met by their job seeker account where they can display that it has been used for job search activity?

Mr Boxall—The job seeker account is flexible, and the Job Network provider might decide to pay some other costs, but it is a bit like saying that for somebody who has work boots you would not expect the job seeker account to be used to buy them another pair of work boots. So it may mean that the Job Network provider decides to spend the money on something else for people who already have their mobile phone.

Senator WEBBER—Has your experience with the use of mobile phones so far shown that there is more of a metropolitan take-up and success rate for people outside the metropolitan area?

Ms Caldwell—I would have to take the geographical split on notice unless somebody in the room can get that to us in the course of our discussions. Certainly we have looked at that in a number of dimensions, particularly job seeker age. We found, for example, that the effectiveness of use of the SMS technology was higher among more mature age job seekers than among your stereotypical very young user of SMS technology. It goes to Mr Correll's point—that the SMS notification system is proving to be an extremely powerful tool.

Senator WEBBER—Accepting what you were saying before about perhaps, if the trial is successful, looking at the use of CDMA—which I am pleased to hear about—has the department given any thought to any other initiatives to enhance the prospects of people who cannot access all this great technology? Is there any other special kind of assistance?

Mr Correll—At present job seekers can access their automated matching through email messages; through personal pages, either on kiosks or the Internet; through SMS messaging; and through calling a telephone messagebank system. So, effectively, there has been a large number of communications channels established to try and ensure that we meet the needs of all job seekers. It is clear that the prospects for gaining a job are significantly improved based on the speed of the communication of the message. That is one of the reasons we believe SMS messaging is proving to be particularly successful; it is a push message, effectively, that is notified instantly rather than relying on some information being retrieved from any particular location. So a wide range of communication channels have been put in place for the job seeker.

Mr Pratt—Earlier this morning we talked about job seeker accounts and I said I would come back if I had an update on the estimate of the proportion of eligible job seekers who had

access to an entitlement. I am pleased to report that my estimate of around 30 per cent was pretty close: it is 31 per cent.

Senator WEBBER—Well done. Turning now to the Employment Innovation Fund, in response to questions on notice that related to the fund, have any of the projects provided any reports to date?

Mr Hade—No project has provided a report yet, but I suspect that where they are required under the contract they will be provided fairly soon.

Senator WEBBER—Given that the project funded for the Islamic Council of Australia is aiming to research barriers to employment for Muslim job seekers, could you provide the number of job seekers who identify as Muslim? I accept that you will have to take that on notice.

Mr Hade—We will have to take that one on notice.

Mr Correll—I am not sure that we actually have that data on our information systems. As Mr Hade has flagged, we can take it on notice, but I am not sure we can give you an answer.

Senator WEBBER—If you do have that, perhaps you could let me know how we identify them.

Mr Correll—I have just had it confirmed with me that we do not in fact record any data in relation to that characteristic on our database, so we would not have that information for you.

Senator WEBBER—How many other organisations applied for funding under the innovation fund?

Mr Hade—As at 17 February we have received 29 proposals for funding under the Employment Innovation Fund.

Senator WEBBER—You may have to take this on notice, but can you give me a breakdown of the locations that these proposed applications cover?

Mr Hade—I will take that on notice.

Senator WEBBER—Do you have an idea of how much funding these organisations requested for their projects?

Mr Hade—I am able to tell you how much funding has been approved and how much we have paid. I do not know what the total amount of funding requested is.

Senator WEBBER—Why don't we start with how much has been approved?

Mr Hade—At this stage, 12 proposals have been approved with total funding of \$946,000.

Senator GEORGE CAMPBELL—How many participants are currently in the Transition to Work program?

Ms Caldwell—The program currently has around 11,000 participants. It is expected to commence this year with 10,000. It commenced this year on a year to date basis of 6,700—almost 6,800.

Senator GEORGE CAMPBELL—With 6,700 or 6,800?

Mr Hade—With 6,756, which has gone up to 7,062 who commenced the program in the first half of this year.

Senator GEORGE CAMPBELL—How many participants in total have passed through the program?

Ms Caldwell—I will get one of my colleagues to calculate that for you. Since what time?

Senator GEORGE CAMPBELL—Since the program started.

Ms Caldwell—I will take that on notice.

Senator GEORGE CAMPBELL—Can you also provide us with the age and gender breakdown of the participants on this program?

Ms Caldwell—We certainly can. It is predominantly parenting and mature age persons who are the most common users, so it tends to be the older age group.

Senator GEORGE CAMPBELL—Would you take that on notice and give us the exact details?

Ms Caldwell—I can give you the exact details.

Senator GEORGE CAMPBELL—Is the program oversubscribed at the moment?

Ms Caldwell—It is a highly popular program; it is a small sized program. The arrangements for the program are that providers of places under the program are able to conduct their own marketing efforts, in addition to receiving referrals from Centrelink of people in receipt of parenting payments or other payments that are available. Across Australia most providers would say to us that they either have people waiting to go into the available places or certainly would be able to increase their marketing efforts and do so. It is a program that is very popular with eligible participants.

Senator GEORGE CAMPBELL—Are there many people waiting to get into the program?

Ms Caldwell—We do not maintain waiting lists as such, for the reasons that I was indicating. There is a mix of people who make inquiries through Centrelink who are on income support payments, where a count is done of the number of those people interested. But the program is also open to non-income support beneficiaries who may be recruited through local community groups, parent groups and other networks and we do not maintain records on a centralised basis of how many potential participants might be in those groups.

Senator GEORGE CAMPBELL—But you are aware that there are people waiting to get into the program?

Ms Caldwell—Yes.

Senator GEORGE CAMPBELL—Isn't this what the task force predicted?

Ms Caldwell—Which task force?

Senator GEORGE CAMPBELL—The task force report on Transition to Work. Paragraph 188 states:

Early experience with the Transition to Work is that it will be successful in achieving its aims and will be significantly over subscribed.

Ms Caldwell—I am not familiar with that task force. One of my colleagues in the room may be able to assist with that. It is certainly the case that these services are going to a large market area.

Mr Correll—We may be able to help you here, but we are just not quite clear what you are reading from or referring to here.

Senator GEORGE CAMPBELL—I understand there was a task force report into Transition to Work. At paragraph 188, this statement appears:

Early experience with the Transition to Work is that it will be successful in achieving its aims ...

Senator Abetz—What was the report for, so we can identify it?

Senator GEORGE CAMPBELL—I have not got the name of it here. I will find it.

Proceedings suspended from 12.29 p.m. to 1.33 p.m.

CHAIR—The committee is considering outcome 1, An effectively functioning labour market.

Senator GEORGE CAMPBELL—I asked a question before lunch of Ms Caldwell. I think I was asking you about paragraph 188 of the report.

Ms Caldwell—Yes.

Mr Correll—Is it a work and family task force report?

Senator GEORGE CAMPBELL—Yes.

Mr Correll—I believe that is not a report we can provide any comment on.

Senator GEORGE CAMPBELL—But it deals with Transition to Work. I presume you had input into that.

Mr Correll—We would potentially have had input into Transition to Work, but I am not in a position to provide any comment in relation to that document.

Senator GEORGE CAMPBELL—I did not realise I was asking for comment on the document. You asked me where the advice came from and I told you—from paragraph 188 of that document. I was asking you whether the early experience with Transition to Work has been that it is significantly oversubscribed, as was predicted in that document.

Mr Correll—The experience with Transition to Work would be that there is strong interest in the program and absolutely no difficulty has been experienced in filling the places to date.

Senator GEORGE CAMPBELL—So you have been able to accommodate everyone who has sought to access to the Transition to Work program?

Ms Caldwell—As I was indicating in earlier answers, we do not maintain waiting lists to get into Transition to Work. Transition to Work providers are contracted to deal with inquiries, including doorknocking inquiries from people who come direct to those providers. It is not in the nature of a program with waiting lists that are maintained. Having said that, we have been speaking to Transition to Work providers since before Christmas last year about further improvements to the program because a lot of the people who are dealing with Transition to Work providers are keen to access employment services and we have been speaking to the market of Transition to Work providers about the opportunities available for better linkages

with the other employment services that are available, particularly for job seekers who are parents returning to the work force.

Senator GEORGE CAMPBELL—That does not really answer my question. Are all job seekers who are seeking to move into the work force being accommodated on this program?

Ms Caldwell—Not all persons who seek to return to the paid work force would necessarily go through Transition to Work.

Senator GEORGE CAMPBELL—That is not what I asked.

Ms Caldwell—In terms of whether there are waiting lists for Transition to Work places in some areas, there would be waiting lists of variable size that are maintained by providers. Providers would also calibrate their local marketing efforts to match the level of interest that they are garnering and the level of promotion that they undertake about the services to meet reasonable access. But, yes, there would be some people who would be keen to use the services who may not be able to walk in and start them the same day that they ask.

Senator GEORGE CAMPBELL—So it is fair to say that the statement in that report is correct, that there is substantial demand for places in the Transition to Work program.

Ms Caldwell—There is certainly demand for those services.

Senator GEORGE CAMPBELL—Where does the information come from about the program?

Ms Caldwell—The information in the task force report that you were referring to?

Senator GEORGE CAMPBELL—Yes.

Ms Caldwell—As Mr Correll has said, we are not in a position to comment on that report itself.

Senator GEORGE CAMPBELL—The program has been running for 14 months; is that right?

Ms Caldwell—Correct.

Senator GEORGE CAMPBELL—Has the department considered expanding the program, given that it has been so successful?

Mr Correll—Any such expansion of the program would have to be considered in the budget context.

Senator GEORGE CAMPBELL—Is it being considered in the budget context?

Dr Boxall—We cannot comment on what is considered or not considered in the budget context.

Senator GEORGE CAMPBELL—I just thought I would ask. What is the cost of the program?

Ms Caldwell—It is \$11.335 million in the current financial year.

Senator GEORGE CAMPBELL—How many persons have been accommodated through that?

Ms Caldwell—The number of commencements in the current financial year in the program is 7,062 to today's date. That is commencements in this financial year. You asked about the total number of participants over the life of the program, and we are getting that advice for you.

Senator GEORGE CAMPBELL—The \$11.335 million is for the financial year?

Ms Caldwell—Yes.

Senator GEORGE CAMPBELL—So those figures of 7,062 correspond with the \$11.335 million?

Ms Caldwell—That would be from the first months of this financial year.

Senator GEORGE CAMPBELL—Do you have any figures on the average period that people who have gone through the Transition to Work program are spending in the work force?

Ms Caldwell—It varies. It is difficult to determine an average because of the different service suites that are available. It would be in the order on a very broad average of around five months, but there is quite a variety of timing. Some participants in Transition to Work will use the services very briefly as a short initial intervention to help them freshen up their skills and will exit very quickly into paid employment. Others will be in the program for up to 12 months. The total commencements last year were 12,009 people on top of the 7,062 who have commenced this year, bringing us to a total of 19,071 so far.

Senator GEORGE CAMPBELL—That is over 14 months, is it?

Ms Caldwell—The program has been running since 1 July 2002.

Senator GEORGE CAMPBELL—This is actually its second year. Is it expected that the figures for this full financial year will be somewhere in the region of the 12,000 of the previous financial year?

Ms Caldwell—It is. There will be at least that many, if not more, commencements this financial year.

Senator GEORGE CAMPBELL—What is the \$11 million funding for? How is that disbursed?

Ms Caldwell—There are two main items under that funding. There is a payment to the contractors who provide the service to the participants in the program. There is also a skills development funding component, which is a quarantined amount of funds available for service providers to assist with short courses.

Senator GEORGE CAMPBELL—This is a training fund, is it?

Ms Caldwell—It is for skills development. It may be broader than training.

Senator GEORGE CAMPBELL—In the broad sense?

Ms Caldwell—Yes.

Senator GEORGE CAMPBELL—What is the value of that?

Ms Caldwell—The skills development funding constitutes \$3.7 million of our \$11 million.

Senator GEORGE CAMPBELL—Is there any wage subsidy out of this money or is that simply paid to the provider to secure the employment?

Ms Caldwell—No. The other fees to the provider are in the nature of administration and management fees—that is, payment for services provided.

Senator GEORGE CAMPBELL—Is there an expectation that these people will be paid for the period they are in the work force?

Ms Caldwell—The payments are made essentially as a lumped bonus. We, through a purchasing process, select our providers and we pay them an administration fee that is set at \$250 per person. The management fee is a tendered price.

Senator GEORGE CAMPBELL—What I was asking about is the individuals who access the Transition to Work program. For the period they spend in employment, are they paid by the employer?

Ms Caldwell—Certainly.

Senator GEORGE CAMPBELL—I just asked you that question, Dr Boxall, and you said it is in the context of the budget, but in the task force report a statement in paragraph 189 says:

The Minister for Employment and Workplace Relations is seeking to bring forward in the 2003-04 Budget context a proposal for expanding the transition to work.

Is that correct?

Dr Boxall—The department simply cannot comment on what might or might not be considered in the budget context.

Senator GEORGE CAMPBELL—I am saying that this is what the report has said.

Dr Boxall—I do not know what the report has said because I do not have a copy of it.

Senator GEORGE CAMPBELL—Don't you trust me?

Senator Abetz—Not on your attempts this morning. Questions of mere speculation should not be allowed.

Senator GEORGE CAMPBELL—It is not mere speculation—

Senator Abetz—About whether you should be trusted or not.

Senator GEORGE CAMPBELL—Was there a DEWR representative on the work and family task force?

Mr Correll—Yes.

Senator GEORGE CAMPBELL—Can you outline the assistance that is currently available for retrenched workers in their transition to future employment, education or training?

Ms Caldwell—Under the Transition to Work program or more generally?

Senator GEORGE CAMPBELL—More generally.

Ms Caldwell—There is a wide range, starting with Transition to Work. The support that is available is targeted, in particular, to parents and mature age persons and people who have

been out of the work force for caring responsibilities for a period of two years or more currently. That is in the nature of services that are available both to income support recipients and non-income support people who are not receiving income support at the current time. The nature of the intervention is for the specialist service providers to work with the individual providing, in the first instance, what we call a skills audit amongst the market to get a fix on their likely job aspirations, their skills, their needs and any refresher courses that they may need to do. They then work with the individual on confidence building, on putting them in contact with the local labour market and on minor skills development—typically to update skills they had before they left the paid work force—so they can make a successful re-entry.

Senator GEORGE CAMPBELL—Can you explain to me the reasons why Pathways Employment Services application for a Pasmenco employee support program was rejected?

Mr Hade—The Pathways Employment Services proposal was received and considered by the department under the Employment Innovation Fund processes in October last year. Under those processes, which are set out on the web site, there are certain guidelines and criteria set out for the assessment of a project. The project itself is assessed initially by a departmental committee of specialist officers, and then that committee's recommendation then goes to another committee of officers who will then discuss the recommendation with the delegate. That proposal was not accepted by the delegate on 27 October this year because the idea of access to Job Network services by newly retrenched workers has already been tested, and we are looking at other developments for that. So to some extent it was considered that the proposal itself was not as innovative as it might have been for funding under the Employment Innovation Fund. I would add that, although that proposal was not accepted, I understand that there is some work being managed by the state manager in New South Wales in relation to matters concerning the Pasmenco workers and their families generally.

Senator GEORGE CAMPBELL—In what way did the application for this project not meet the guidelines of funding under the innovation fund?

Mr Hade—I have some summary information but I am also relying on memory of the case itself. I would like to take that one on notice in order to provide a fuller answer.

Senator GEORGE CAMPBELL—Can you tell me what the recommendation of the project application review committee was on this Pathways project?

Mr Hade—No, I cannot recall. I would prefer to take that on notice.

Senator GEORGE CAMPBELL—Can we get a copy of the assessment process undertaken by the review committee?

Mr Hade—Could I take that one on notice also?

Senator GEORGE CAMPBELL—Did the area consultative committee or the DEWR state office or other staff support the Pathway project?

Mr Hade—Under the process that we have, the area consultative committee and the state manager would have been consulted in relation to the project. I cannot recall whether either of them supported the project.

Senator GEORGE CAMPBELL—Can you take that on notice and let us know who actually supported the project.

Mr Hade—I will.

Senator GEORGE CAMPBELL—Was an application lodged by Westlakes Training?

Mr Hade—Yes, an application was lodged by Westlakes Community Training Services on 26 September.

Senator GEORGE CAMPBELL—Did the project proposed by Westlakes Training receive approval?

Mr Hade—No, the project did not receive approval.

Senator GEORGE CAMPBELL—I understand Westlakes Training was wound up. Did you say there was no funding given to it?

Mr Hade—I said that the application which it made for Employment Innovation Fund funding was not approved.

Senator GEORGE CAMPBELL—What research has the department done on the impact of early assistance for retrenched workers in reducing unemployment, particularly long-term unemployment?

Ms Taylor—We have not done any specific research on early intervention with retrenched workers.

Senator GEORGE CAMPBELL—You haven't?

Ms Taylor—No.

Senator GEORGE CAMPBELL—You refer to it in your letter to Pathways, which says: Research has already been conducted into community based assistance for large groups of retrenched workers which has given rise to an existing body of knowledge within the department. What does that research refer to?

Mr Hade—That would have been a letter sent to Pathways telling them about the outcome of the proposal. I would have to take that on notice to obtain more information about it. It may well be referring to research other than that conducted by the department.

Senator GEORGE CAMPBELL—If there has been research done in this area, can we have a copy of it?

Mr Hade—Yes, certainly.

Ms Taylor—We will look at that.

Senator GEORGE CAMPBELL—What are the impacts of delaying job search assistance to retrenched workers?

Mr Correll—Retrenched workers can access Job Network services immediately through job search support only services. There have been cases in the past where, in situations of redundancy and retrenchment at a localised level, there has been close work between the company, the local community and Job Network members to provide the earliest possible access to job search support services through the Job Network area.

Senator GEORGE CAMPBELL—How long do retrenched workers have to be unemployed before job search assistance is provided?

Mr Pratt—An employee who has formal notification of their redundancy is at that time eligible for job search support services.

Senator GEORGE CAMPBELL—As soon as they are notified?

Mr Pratt—That is right.

Senator GEORGE CAMPBELL—So they could be in employment and still be eligible?

Mr Pratt—That is right.

Senator GEORGE CAMPBELL—Are there programs currently operating in the Hunter region for retrenched workers?

Mr Correll—Not specific programs that I am aware of. We would have to take that on notice, particularly if there were circumstances where there were specific Job Network members working within the local community in particular industry areas.

Senator GEORGE CAMPBELL—If there are none, why was this project not considered for this region?

Mr Correll—We have indicated that we will take that on notice. We will come back to you once we have an opportunity to review the papers.

Senator GEORGE CAMPBELL—Are you familiar enough with the program, Mr Hade, to explain to me how the project differs in the timing of the assistance offered currently on the Job Network service?

Mr Hade—No, I am not.

Senator GEORGE CAMPBELL—Can you take that on notice?

Mr Hade—Certainly.

Senator GEORGE CAMPBELL—What has been the success of Job Network in the Hunter region in placing unemployed persons who were retrenched into employment?

Mr Correll—I do not have that information at my fingertips. We would have to take that on notice. We would certainly have information on job seeker placements in the Hunter region. I am not sure of the extent to which we could identify retrenched workers in that category. We can certainly look at what information is available there.

Senator GEORGE CAMPBELL—While you are doing that, can you also look at the average length of unemployment for these persons?

Mr Correll—Yes.

Senator WEBBER—When last we met we had a discussion about inappropriate vacancies. In answers to questions on notice, 62 organisations were identified as having been refused permission to advertise on the Australian Job Search web site. Can you supply on notice the names of those organisations?

Ms Caldwell—I will take that on notice to ensure there is no reason why we could not provide those to you.

Senator WEBBER—Have any other organisations been refused permission since November last year?

Ms Caldwell—I will check that. I do not believe any have.

Senator WEBBER—Obviously, if they have, you can consider supplying the names of those organisations too.

Ms Caldwell—Certainly.

Senator WEBBER—For the organisations that were refused, what vacancies were they trying to advertise?

Ms Caldwell—That would cover a range of vacancies. The rules that are available to us in terms of suitable vacancies are clear: we do not accept adult vacancies, inappropriate vacancies or certain commission work. I would need to provide in my responses what the nature of the vacancies were that led to the listing of the particular 62 organisations you refer to.

Senator WEBBER—Perhaps while you are doing that you could also look at providing a list of the occupation or the industry of the vacancies that have been refused.

Ms Caldwell—It would go to the matter of ensuring the quality of the vacancies that are lodged with our national vacancy database.

Senator WEBBER—Has the department undertaken any suspensions or cancellations of contracts with any organisations since 1 July last year as a result of inappropriate vacancies?

Ms Caldwell—Not to my knowledge. I will check, but I believe the answer is no. My colleague may be able to help me.

Mr Correll—The answer is no.

Senator WEBBER—Have there been any other sanctions imposed on organisations, other than suspending their right to lodge vacancies?

Mr Correll—No.

Senator WEBBER—In other answers to questions on notice, the department has indicated that, as of 31 October last year, there had been 96,200 eligible job placements made by job placement organisations, including Job Network members. What is the number of eligible job placements for that period made by organisations that are only job placement organisations?

Ms Caldwell—Senator, I have the numbers from the total eligible places as at the end of January of this year. Would that be helpful to you?

Senator WEBBER—Okay.

Ms Caldwell—I do not have the figures back from November. Counting total eligible placements from all job placement organisations from 1 July 2003, we have a little over 153,000 placements, of which 27,000 were JPLOs. We might take that on notice.

Mr Correll—Senator, that is information that we do not have immediately on our papers, but we can come back later today that with information.

Senator WEBBER—Otherwise just take it on notice. That is fine. In January this year, there was this very special ad that even made it over to Western Australia: 'Job Network find the right staff.' I take it you are aware of the ads?

Mr Hade—Yes, Senator, we certainly are.

Senator WEBBER—Is it your department that has responsibility for placing that ad?

Mr Hade—It is our department and my responsibility, Senator.

Senator WEBBER—Your personal responsibility? Gee, I have hit the jackpot. What other publications did that advertisement appear in?

Mr Hade—In which one did that advertisement appear?

Senator WEBBER—This appeared in the *Australian*.

Mr Hade—The advertisement was part of a campaign aimed at employers to try to encourage the use of Job Network by employers in certain industries where we were wishing to increase the take-up of participation in Job Network. The advertising campaign started in December. It was targeted in the metropolitan newspapers. From memory, it was in the regional newspapers also, and then there was a second round of advertising starting in about the middle or third week of January again in metropolitan newspapers and then at regional newspapers.

Senator WEBBER—Which industries were you trying to target?

Mr Hade—The initial round of advertising is targeted at the retail industry, where we are seeking to increase the use of Job Network by retail employers. We will also then be looking at the accommodation, cafe and restaurant industry, health and community services, manufacturing and then property and business services.

Senator WEBBER—Right.

Senator GEORGE CAMPBELL—Why did you select retail initially?

Mr Hade—The research that we have done shows that there were five industry segments in particular which have both good employment prospects and relatively low Job Network penetration. Retail was chosen because the Job Network penetration—that is, the number of vacancies filled by Job Network members—was at quite a lower rate.

Senator GEORGE CAMPBELL—Is that because of the nature of the industry?

Mr Hade—It would be difficult to say, but we certainly thought it would be important to take a message to the employers in those industries that Job Network would be able to assist them in filling vacancies in the industry.

Mr Correll—We try to target the high job growth industries in particular. The highest priority is to connect Job Network services with those industries where the highest job growth opportunities are for the job seeker pool. The retail sector is one of the highest growth sectors for job opportunities in the Australian labour market, as are some of the other sectors mentioned by Mr Hade.

Senator GEORGE CAMPBELL—What about the issue of substantial skills shortages in the manufacturing sector?

Mr Correll—That is also an area that we are very interested in. There is an improved employment innovation fund proposal, if I am correct, dealing specifically with the issue of

apprentices in the Illawarra and supporting the connection of young people in the Illawarra with traditional trade apprenticeships.

Senator GEORGE CAMPBELL—Is it the one that Ms George is the chair of—the joint project with the Chamber of Industry and Commerce?

Mr Correll—That is correct.

Senator GEORGE CAMPBELL—What is the project in the hospitality industry, given the high percentage of backpackers who operate in the industry?

Mr Hade—Again, it follows much the same approach. We have identified this industry as one where there is potential for jobs growth. As well as that, we believe that Job Network members would be able to work to meet that growth, which is why we were targeting that industry.

Senator WEBBER—In addition to placing these ads in the print media that you were talking about, was any consideration given to advertising in trade publications or journals?

Mr Hade—Certainly, the next phases of the campaign will be targeted more at trade and industry magazines. We have carried out a fair bit of research into the ways in which people in the various industries respond to promotions and advertising. Certainly, one of the messages from that was that trade and industry publications provide an authoritative and convincing message for employers.

Senator WEBBER—When is the next phase taking place?

Mr Hade—The phase will take place over the remainder of this year.

Senator WEBBER—What has been the total cost of the ads to date?

Mr Hade—The total campaign has cost approximately \$500,000 so far. I will take it on notice to give you more precise details, but it is in the order of that magnitude.

Senator WEBBER—Given the fact that you say the initial target was retail, is there any particular reason why *Choice* commenced the campaign in December?

Mr Hade—Yes, there was. The early part of December is traditionally a time when there is a fairly high demand for employment within the retail industry. What we were seeking to do then was to capture some of that to try to aim the campaign at employers who might be considering taking on staff for the December period or who might be considering taking on staff in the period immediately after the end of the calendar year. The campaign was intended to raise the awareness of Job Network. We considered at that time that there would be many retail employers who would be thinking recruitment and we were hoping to have the message of ‘If you’re thinking that, think Job Network as a potential source of recruitment candidates for you.’

Senator WEBBER—My knowledge of the retail sector probably is not that great, but December is obviously an important month for it in terms of employing people and I would have thought therefore that they would be making take-up decisions in about October.

Mr Hade—I think it is a spread of a time period from, say, October-November through to December. The way in which we developed the campaign and the timing we had for it meant that we nevertheless thought that it would be of benefit and use to commence the campaign at

that time. We did think there would be employers who would be thinking recruitment either for the period up to Christmas or perhaps for the period after Christmas.

Senator WEBBER—Has there been any analysis completed to date, or do you intend to conduct any, on the effectiveness of the campaign?

Mr Hade—We do intend to carry out an evaluation of the success of the campaign. That evaluation has not been completed.

Senator WEBBER—When you were planning the retail campaign, was there any particular historic data or research that you used to determine that December was a good time for retail?

Mr Hade—I think there was a judgment formed in discussions among us and among other people in the department.

Senator WEBBER—What other campaigns are planned for the remainder of this current financial year?

Mr Hade—At this stage we will be continuing the employer campaign, as I said, over the next couple of months.

Senator WEBBER—Is that still going to target specific industries?

Mr Hade—It will target the industries that I have mentioned, although it will be targeted more through the industry trade newspapers. As you will recall, there was a mature age month promotion in October last year. It was indicated at the time that there would be a fuller mature age campaign or promotion taking place later on this year.

Senator WEBBER—Do you know roughly when that will be?

Mr Hade—April, I think.

Senator GEORGE CAMPBELL—To what extent has the department sought to identify or contact unemployed people in the community who possess skills that may be in demand or that can be brought up to speed to meet demand for skills shortages?

Mr Manthorpe—I think the way I would answer that would be to say that we would expect Job Network members would be engaging in discussions with job seekers in their daily work to identify the skills that those job seekers might bring to the table. What we have been seeking to do—and Mr Hade and other colleagues have referred to a couple of aspects already—is engage with those industries that possess the skill shortages to see whether we can connect the employer side of the equation with the job seekers, who might be identified through the Job Network or brought through using the job seeker account to hone or develop skills, to try and meet some of those labour shortage issues.

Senator GEORGE CAMPBELL—That has not proved to be terribly successful so far in terms of the Job Network. In fact, there has been considerable complaint from employers that Job Network does not do much at all in skill matching.

Mr Correll—This is an area where I think the changes under the active participation model are making a huge difference, as is the nature of the work that Mr Manthorpe is leading through the industry strategies task force he is running. Basically, under the active participation model, the job seeker account and complementary programs become key tools to

support the addressing of industry skill shortage needs. We are now finding that those flexibilities available under the active participation model are providing considerable capacity to support in this area and to support more effective interventions. We have a number of projects running at the present which are geared specifically to the issue of addressing labour supply and skill shortage areas and to targeting those industries.

Senator GEORGE CAMPBELL—Can you identify what those projects are?

Mr Manthorpe—I can mention a couple of them for indicative purposes—for instance, the aged care sector. With the ageing of the population there is obviously an issue about the provision of aged care services and evidently some skill and labour shortages in the area of carers in the aged care facilities. We have been working very closely with aged care employer groups and individual employers, training organisations, Job Network members, job placement organisations and the like to try and identify ways in which we can articulate job seekers who may have an interest and an aptitude in that sector into work in that sector. In that regard we have some work progressing well in South Australia. We think it will roll out in some of the states as well.

Mr Correll mentioned a moment ago the Illawarra apprenticeship project. We think that is potentially a very valuable exercise in terms of working with Job Network to identify particularly young, disadvantaged, unemployed people in that area and connecting them up with apprenticeship opportunities and an appropriate level of prevocational training as part of the mix.

We have become aware of and have been involved in some other activities. Mr Hade mentioned the retail sector as one of the industries we are looking at. We have seen examples of Job Network members using the job seeker account to train job seekers for positions in retail, equipping them with various accredited modules to help them overcome whatever barrier they have to getting into that part of the labour market and meeting labour shortages in that sector.

Senator GEORGE CAMPBELL—What about in the skilled trades area?

Mr Manthorpe—The Illawarra example is one that is specifically being targeted. We would hope to be able to put in place projects of a similar kind elsewhere. We have been talking to the Australian Industry Group and others about whether there might be scope to do that in some other locations as well.

Senator GEORGE CAMPBELL—The Illawarra project is a pilot project at this stage.

Mr Manthorpe—Yes.

Senator GEORGE CAMPBELL—Even if it is successful, the fruition will not come out of that for four or five years in terms of qualified tradespeople. There is currently a substantial shortage of skilled tradespeople in a number of key industry sectors—metal tradesmen, electricians, plumbers and so forth. What is being done to try to redress that issue? We know they are out there. A lot of them are out there working in other occupations. It is the classic example of spending four years teaching a person to be a fitter and turner and you find the local taxi driver is a fitter and turner.

Mr Manthorpe—Another initiative or activity that we are involved in that I think is relevant to this is that we have been working with Group Training Australia and some of their affiliates in some of the states, again to try and find ways in which apprenticeship vacancies can be filled using Job Network services. Fundamentally we are working with a clientele of unemployed people, many of whom do not have the necessary skills to get into those areas. If we can bring some of those people through into apprenticeship opportunities then over time that might help meet some of the issues you have raised.

Senator GEORGE CAMPBELL—Essentially I am talking about—and it does not appear that you have got anything—people who already possess trade skills who may not be utilising them but are in the work force or are unemployed and, with limited training, could be skilled to move into another trade or have their skills brought up to date so they can go back into their original trade. There does not seem to be a lot of attention being paid to that area. We know that over the years many tradespeople have been made redundant.

Mr Correll—I think it is an area where the job seeker account, again, has a vital role to play. That is exactly what that account should be used for. If there is an unemployed person who needs to upgrade their skills there is an opportunity to utilise the job seeker account to do just that.

Senator GEORGE CAMPBELL—They may not even be an unemployed person. They could be employed. It is a question of whether or not you run a specific campaign to try and attract these people back into the industry and provide the wherewithal for them to upgrade the skills necessary for them to operate effectively. The corollary to that is whether or not you are running any programs aimed at encouraging employers to take on mature workers. There is a very distinct bias out there in the community against taking people over 45 into employment.

Mr Manthorpe—Again, in a broad sense, I would point to the work of the Transition to Work program that Ms Caldwell was talking about as one specifically tailored initiative aimed at bringing mature age workers back into the labour force. That is one intervention. Several of the projects that I am focusing on are also about encouraging mature age job seekers into areas of work where they either might traditionally not have been, such as the hospitality sector, or where there might be opportunities for them and where they might have a strong compatibility. The aged care sector springs to mind. So there are activities going on that we are working on. You referred to the notion of promoting some of these issues. The department has been active in promoting the opportunities that exist in the labour market through *Jobs Outlook* and publications of that kind. The minister has also been vocal in promoting careers and apprenticeships and so forth in the traditional trades.

Senator GEORGE CAMPBELL—I was asking more about whether you had any programs in place which are aimed at addressing the prejudice that exists amongst a lot of employers against engaging anyone who is 45-plus.

Mr Correll—‘Programs’ is not quite the right word. We have tools available such as a mature age worker tool kit, that is used by our Job Network members, and that includes a range of resource material which can be used by employers to break down the barriers and misconceptions in relation to mature age workers. So that is one example. We have also, in

the last 12 months, done work with organisations such as COTA, running a number of workshops around the country focusing on the issue of mature age workers and raising awareness in that area. Several Employment Innovation Fund projects have been approved to date that specifically go to the issue of mature age workers. So there are quite a number of initiatives geared to both the supply and demand side of that equation.

Senator WEBBER—Last time I asked a number of questions about complaints about Job Network. One of the answers we subsequently got indicated that 12,350 complaints have been received by the customer service line in the four months to 31 October 2003. This 12,000 does not include complaints made directly to Job Network members that are resolved within the Job Network agency, does it?

Mr Hade—No, it does not. The complaints process we have is that job seekers are encouraged first of all to raise concerns or complaints with the Job Network member because under the employment contract 3, Job Network members are contracted to deliver services in accordance with the employment services code of practice and the Job Network service guarantee. So, as I said, we do encourage job seekers to raise their concerns initially with the Job Network member concerned. However, if the job seeker does not wish to raise the complaint with the provider or is not satisfied with the response, they can use a customer service line which we have and be put in touch with a departmental customer service officer. Those officers are expert in employment services and can provide information and service. They investigate the complaints and can require the Job Network member to take remedial action. Our experience is that over 98 per cent of calls are resolved either on the spot or within 20 working days. If, after contacting the customer service line, the job seeker is still not satisfied, the complaint can be taken up with the Commonwealth Ombudsman.

Under the key performance indicators which we have with our Job Network members the quality of service provided to the job seeker forms an important part. At the moment we are conducting a series of milestone interviews with all Job Network members covering their performance for the early stage of the employment services contract. Our account managers will have been provided with information on complaints and, where they believe that the matter is justified, they will take up the level of complaints with the Job Network member concerned.

Senator WEBBER—If a complaint is made directly to the Job Network member, are they then required to report that to the department?

Mr Hade—From memory, no. They should be keeping a record of it.

Senator WEBBER—Why would they not be required to tell you?

Mr Hade—We are seeking to have matters resolved as much as possible between the job seeker and the Job Network member. Obviously there can be a range of matters arising, from quite serious matters to other matters. We think that the initial contact with the Job Network member by the job seeker does provide an opportunity to resolve the matter. Clearly, it is incumbent on the Job Network member to resolve it. If it is resolved and, importantly, it is resolved to the job seeker's satisfaction then that should be the end of the matter.

Mr Correll—Under the employment services code of practice there is a very clear requirement for a complaints register to be maintained by all Job Network members. In

addition, under the performance management regime for Job Network members, key performance indicator No. 3 involves compliance with both the code of practice and the service guarantee for job seekers. Failure to comply with either of those is a very significant issue in terms of performance for a Job Network member. One of the key aspects of the performance review process that Mr Hade referred to that is under way at present is ensuring that complaints registers are in place and that there are appropriate loops for closing off complaints issues within Job Network member organisations. So it is given a very high profile. Indeed, failure to have that has very severe consequences under the performance measurement regime for Job Network.

Senator WEBBER—That is good. How often are these review interviews? Refresh my memory; I know we have been through this before. Are they annual?

Mr Hade—The performance management regime takes place shortly after each milestone point in the Job Network contract—that is, every six months. However, I should emphasise that clearly if matters arise in between those six months which require our account managers or contract managers to resolve or look at matters more promptly then obviously they do so.

Senator WEBBER—I think it is good that we have the regime where they have to keep the register and what have you. If there is a Job Network provider out there who is not doing a particularly good job but the complaints are only going to them for some reason, it can take us six months to work out that we have a significant problem out there.

Mr Hade—Yes, but in practice if you have a situation along the lines you have outlined—where a Job Network member or a particular site of a Job Network member was not performing well—even though the matters would be going to the Job Network member I would have thought that if the Job Network member was not doing something to resolve those matters those matters would be escalating anyhow in some way or another up to the processes which I have outlined already.

Mr Correll—The Job Network service guarantee, which is an up-front document that must be made available to all job seekers by Job Network members, states very clearly:

If you are not satisfied with the service you have received, you should first raise this with your Job Network member. If you are still not satisfied, call the Customer Service Line—

which is quoted there. It continues:

They will endeavour to resolve your concerns quickly and fairly.

If a job seeker is not satisfied with the response they are getting from their Job Network member, they are in fact encouraged to contact the customer service line. The customer service line then refers those queries through to the relevant contract management area. Where there are instances of significant numbers of customer complaints coming through for a particular Job Network provider, it would immediately trigger follow-up action, without necessarily having to wait for a milestone review by the contract manager with that particular organisation.

Senator WEBBER—Is it possible to categorise in any way the complaints you have received?

Mr Hade—Yes, we do categorise the complaints we have received.

Senator WEBBER—Is it possible for us to have access to that breakdown?

Mr Hade—Certainly. May I take that on notice, please?

Senator WEBBER—Yes, absolutely. How many complaints have been received by the customer service line from 1 November last year to the end of last month, say?

Mr Hade—Could I take that on notice?

Senator WEBBER—Certainly. Perhaps while you are having a look at that you could also have a look at how the number of complaints that have been received in the current financial year compares to the number of complaints received in previous years.

Mr Hade—Certainly.

Senator GEORGE CAMPBELL—Question on notice W195-04 went to the staff turnover within the department over the last three years. Can you inform the committee whether the turnover rate of 13 per cent in the 2002-03 financial year is normal?

Dr Boxall—Is that turnover in this department?

Senator GEORGE CAMPBELL—Yes.

Dr Boxall—That is a cross-portfolio question.

Mr Correll—May I come in with a response to an earlier question whilst we are waiting for what might happen in relation to that last question?

Senator GEORGE CAMPBELL—Yes.

Mr Correll—A question was raised earlier in relation to the number of job placements made by job placement organisations only. To 30 January there had been 27,738 placements made by job placement organisations only.

Senator GEORGE CAMPBELL—That is over a six-month period?

Mr Correll—That is since the commencement of the active participation model on 1 July.

Mr Symon—Senator Campbell, you asked a question about staff turnover. My recollection is that total staff turnover within the department is 8.9 per cent. I will confirm that once I have checked with my notes.

Senator GEORGE CAMPBELL—In a response to a question on notice from Senator Webber, you gave us figures that showed that staff turnover for the period 1 July 2000 to 30 June 2001 was 14 per cent; for 2001-02, 18 per cent; and for 2002-03, 13 per cent.

Mr Symon—That does not at all equate with the figures for the department. Can you check whether that includes the whole portfolio or just the department?

Senator GEORGE CAMPBELL—I presume it does. It does not say, but I presume it does.

Mr Symon—I will come back to you, but I am very sure that figures are substantially lower than that. My recollection is 8.9 per cent, and I will get you a definite answer very quickly.

Senator GEORGE CAMPBELL—So the total number of employees is 2,120?

Mr Symon—That is the department.

Senator GEORGE CAMPBELL—That is the whole department?

Mr Symon—Yes, but it is not agencies as well. I will come back shortly.

Senator GEORGE CAMPBELL—‘Shortly’ meaning?

Mr Symon—I am just going to make a phone call.

Senator GEORGE CAMPBELL—Okay, we will wait for that phone call. We will move onto star ratings. Mr Correll, can you outline for the committee how a site would gain a five-star rating?

Mr Correll—The site that gained a five-star rating would do so as the result of a number of things. Primarily it would be based on the fact that they have placed relatively large numbers of long-term unemployed and very disadvantaged job seekers into sustained employment and that they have also been speedy in providing employment placement for their caseload of job seekers.

Senator GEORGE CAMPBELL—What percentage of the total caseload would be needed to gain a primary outcome of five stars?

Mr Pratt—That is impossible to answer. It depends on every single Job Network member’s caseload and labour market, because the star ratings methodology looks at the likelihood of different job seekers getting employment and the difficulty of the local labour market. Only about five per cent of Job Network’s sites would get a five-star rating.

Senator GEORGE CAMPBELL—Let me put it another way: it has been reported to me that one site got 29 outcomes during a ratings period and got a five-star rating. Is that possible?

Mr Pratt—If they had a register of 30 or 40 clients, conceivably that might be the case.

Mr Correll—The star-rating system uses information about the characteristics of the job seekers so, if you have a caseload of job seekers that are highly disadvantaged, it is very significant to your star-rating assessment. It also deals with the characteristics of the labour market concerned. If you are operating in a very difficult labour market, it impacts. Most significantly of all, the star-rating system is a relative system. It is also determined by how other providers are performing, which is a key factor. It is a relative, not an absolute, system.

Senator GEORGE CAMPBELL—Is there a set of criteria or guidelines for this?

Mr Pratt—There is a report which was published on the new star-rating system for ESC3. It is on our web site. If you like, we could make it available.

Senator GEORGE CAMPBELL—I noted that answer 295-04 stated that there had been 16,350 interim outcome payments recorded between 1 July and 7 November 2003. Do we know how many potential interim outcome placements occurred in the three months prior to that?

Mr Pratt—No, I would have to take that on notice. Are you talking about the last three months of the Job Network 2 contract?

Senator GEORGE CAMPBELL—Yes.

Mr Pratt—We would have to take that on notice.

Senator GEORGE CAMPBELL—The reason I am asking that is that from 1 July 2003 to 7 November there were 79,700 placements that may lead to potential interim outcome payments. Do you know how many of these potentials became actuals?

Mr Pratt—The conversion rate at the moment is close to 45 per cent. In fact, we have a rather good news story in this area. To the end of the week of 13 February, there were 154,570 of what we call anchored placements, where Job Network members record on our system those they think may turn into an interim outcome at a later stage. That is an increase of 10 per cent on the same period in the previous contract.

Senator GEORGE CAMPBELL—And that is until February?

Mr Pratt—That is to 13 February.

Senator GEORGE CAMPBELL—What is the drop-off from a placement that may lead to an interim outcome payment and the number of actual payments?

Mr Pratt—With a current conversion rate of 45 per cent, 55 per cent. That is an improvement over the previous contract.

Senator GEORGE CAMPBELL—By much?

Mr Pratt—Yes, by about 10 per cent.

Senator WEBBER—Perhaps while we are waiting for that phone call we could touch briefly on some IT issues. Mr Parsons, could you outline for the committee what the serious issues were with the secure connection software supporting EA3000 that took place on the afternoon of 8 January this year?

Mr Parsons—With your indulgence, could I defer to someone who was actually here at the time?

Senator WEBBER—By all means.

Mr Burston—What happened on 8 January was that some of the certificates that we use to secure our servers and the communication traffic between our infrastructure and the Job Network members expired. The certificates are issued by an independent provider with an expiry date on them, somewhat akin, if you like, to the way Mastercards and similar devices work, so that when these things are issued they can be recalled and managed. The certificates expired and we had to very quickly upgrade them, which we did within, I think, an hour on that day. The background to it was that the provider of those certificates, after we had dug through the detail, was able to show us that they had advised the department in November that they were going to expire. The problem was that the person to whom they had sent the advisory had in fact moved to another position. So, although they could show that they had advised us, there was an administrative matter in respect of a person having moved on.

Senator WEBBER—During that time, I understand that Job Network staff were unable to log in. Is that right?

Mr Burston—There was an inconvenience of about 90 minutes on that day, yes.

Senator WEBBER—Do we have sufficient protocols in place to ensure that that does not happen again? How often do these certificates expire?

Mr Burston—We certainly do, Senator. We did two things. Firstly, we reviewed all our certificates. We have certificates on the three layers of our technology. We reviewed all of them, and we ensured two things: that the revocation dates, having been checked, are sufficiently far out that it cannot occur again in the short term and, more importantly, we put in new procedural arrangements so that, when the certificates come within a certain time of expiring, many communications are received in the department—not simply one to one key individual, as was the problem in the past.

Senator WEBBER—It was the renewal of the certificates that was the focus of the discussions with the software vendors VeriSign and Microsoft. Is that right?

Mr Burston—That is right, Senator.

Senator WEBBER—For one of the questions on notice, W278-04, the answer states, ‘The budget for EA3000 was \$20.9 million.’ Is that correct?

Ms Golightly—Certainly, Senator, that is the answer to that question.

Senator WEBBER—Was that the budget for the entirety of the work or only that work done in the financial year 2002-03?

Ms Golightly—From the information I have here, I think it was for the financial year 2002-03.

Mr Parsons—Yes, it was. That is correct.

Senator WEBBER—You could take this on notice: would it be possible to get the figure for the entirety of the work?

Mr Parsons—As in the work this financial year as well?

Senator WEBBER—The entirety of the development of the EA3000 rather than just this financial year.

Mr Parsons—EA3000, as a product, was delivered and completed on 1 July. The work that has been done since then has variously been enhancements to the products and development work aimed towards our subsequent release in March.

Senator WEBBER—So the \$20.9 million was for the financial year 2002-03. Was there any money spent in the financial year before that?

Mr Parsons—No, not on EA3000 proper.

Senator WEBBER—In answer to part (c) of the question, the department indicated that capital costs for software development and related infrastructure was \$10.3 million. Was that \$10.3 million part of the \$20.9 million or is it additional?

Ms Golightly—One is the capital cost and the other is the expense item, I believe.

Senator WEBBER—So it is additional to it.

Ms Golightly—I will double-check that.

Senator WEBBER—In answer to part (d), there was an amount of \$7.3 million for contractors. Is that an additional cost over and above the \$20.9 million or is it part of it?

Ms Golightly—In that case, it is part of the \$10.3 million.

Senator WEBBER—So it is part of the \$10.3 million.

Ms Golightly—Yes.

Senator WEBBER—We are just waiting on the information that Senator Campbell was after.

Dr Boxall—Senator Campbell, we can deal with the information you asked about staff turnover as soon as you like. We can move onto outcome 2, if you want, or whatever is next on the agenda.

Senator GEORGE CAMPBELL—We only have one set of questions left on this section. We have a whole series of other questions but we will put them on notice. That will speed the process up a bit.

Dr Boxall—Thank you. Is that it for outcome 1?

Senator GEORGE CAMPBELL—Except for the staff turnover issue.

Dr Boxall—Yes, except for staff turnover.

Mr Symon—Senator, I have an answer to your question. We have two different issues here. One relates to total staff turnover. The recollection I have concerned employee initiated separations, which is obviously the issue that is of concern to us. In regard to employee initiated separations, the figures were 8.9 per cent. In fact they have improved for the department, and have now gone down to 7.94 per cent. There is obviously a higher figure for total staff turnover. Total staff turnover includes people who may have transferred to another department. There are two different issues. There are people who resign and who retire, and there may be fixed contract people who terminate their contact early. We would call those employee initiated separations. There are people who leave for other reasons, and that is why the figure is higher for total staff turnover. The figure we tend to concentrate on in the HR area is the employee initiated separations, which is a lower figure.

Senator GEORGE CAMPBELL—But the total turnover rate of 13 per cent is correct?

Mr Symon—Yes.

Senator GEORGE CAMPBELL—Are you aware how this turnover compares to that of other departments?

Mr Symon—My experience certainly in previous organisations is that 13 per cent is about normal. As I said before, the figure that most organisations focus on is the employee initiated separations. That to us is a more realistic figure, and in that regard 7.94 per cent is a very encouraging and low figure.

Senator GEORGE CAMPBELL—You are currently offering voluntary redundancies. Is that right?

Mr Symon—There are some voluntary redundancies being offered, yes.

Senator GEORGE CAMPBELL—How many people have indicated that they are taking them, and how many do you actually require?

Mr Symon—There are some people who are giving consideration to an offer that has been made, so I cannot give you an answer at the moment.

Senator GEORGE CAMPBELL—But what is the number that you are seeking to reduce through voluntary redundancies?

Mr Symon—Currently there are two processes ongoing. There is a process within the states. We have looked at the rationale for the funding of each of the state offices, and there have been some adjustments in that area. There have been increases in some states such as the Northern Territory. There have been some reductions, because of the work required, in South Australia and Tasmania. As a result, there have been a very small number of voluntary redundancies offered in Tasmania. As far as other exercises are concerned, currently 12 have been offered, to my knowledge, in the department, but I do not know yet because people have not come back and indicated their preferences in that regard.

Senator GEORGE CAMPBELL—How many in Tasmania?

Mr Symon—At the moment I believe one, and I will check whether it is two—certainly one.

Senator GEORGE CAMPBELL—So it is 14 in total?

Mr Symon—Correct.

Senator GEORGE CAMPBELL—You said that the 13 per cent figure, in your experience, is fairly normal. Do you have a comparison with other departments within the government?

Mr Symon—No, I do not.

Senator GEORGE CAMPBELL—Can you take that on notice and find out what the turnover rate is in other departments?

Mr Symon—Yes, I can, but I repeat: the issue that most HR areas are concerned about and focus on is the employee initiated separations, and in that regard 7.94 per cent is a very good figure.

Senator GEORGE CAMPBELL—Have the administration costs of establishing the Job Network overshot the budget?

Mr Symon—That is an outcome 1 question; I cannot answer that.

Senator GEORGE CAMPBELL—There are no corporate people here; they have all gone.

Mr Symon—I am General Manager, Corporate. But the question you have asked is for outcome 1.

Senator GEORGE CAMPBELL—I thought it would be within the purview of corporate.

Mr Symon—No.

Senator GEORGE CAMPBELL—Can you put that on notice?

Mr Symon—Indeed.

Senator GEORGE CAMPBELL—Thank you.

[2.59 p.m.]

Equal Opportunity for Women in the Workplace Agency

Senator WONG—Ms Krautil, at the November estimates hearing, I think Senator Kirk asked you some questions regarding the provision of paid maternity leave, and you advised that your agency was undertaking a survey and that you would provide the results of that survey.

Ms Krautil—I have a copy of the survey here for you to look at.

Senator WONG—Thank you.

Ms Krautil—There are two aspects to this survey. I talked in November about the paid maternity leave survey, and that is there with the detailed analysis. We are still crunching the flexibility part of the survey.

Senator WONG—When was the survey conducted?

Ms Krautil—It was conducted last year with the 2002-03 reporting process, so the data was collected between May and September 2003 from companies that report to EOWA under the legislation, in addition to their normal legislative requirements.

Senator WONG—Were the results of this survey provided to the Prime Minister's interdepartmental task force on work and family, or had the task force finished its work before the survey was concluded?

Ms Krautil—It was not from our end forwarded to that task force. I am not full bottle on where that task force is at. You would need to ask the department.

Senator WONG—So your agency was not on the task force?

Ms Krautil—No. DEWR is the department represented on the task force. Certainly we released the data into the public arena, But we have not taken it formally to that task force.

Senator WONG—I am a bit surprised you were not represented on the task force, given the brief of EOWA.

Senator Abetz—Your surprise is noted, but I am not sure that that is necessarily a question.

Senator WONG—Are the issues of balancing work and family responsibilities something that you consider within the work of EOWA?

Ms Krautil—I believe it is covered under four of our employment matters under the act, but EOWA has never had the work and family brief; that has been with DEWR. But, under the act, we do look at employment matters in relation to pregnancy, breast feeding conditions, flexibility and work design.

Senator WONG—Which are inherent.

Ms Krautil—They are inherent. We are across what companies are doing in the work and family area because we pick that up through the legislation, but we are not seen as a policy adviser on work and family.

Senator WONG—Under this government?

Ms Krautil—I cannot comment on that. I should have said that I do not contribute to that. We make our data available to the department through our annual report. The work and family data is all in that—so it is there.

Senator WONG—You have some expertise particularly in relation to women's employment, do you not?

Ms Krautil—Absolutely, yes. We believe that we are a centre of excellence on women workplace issues and solutions.

Senator WONG—A centre of excellence.

Ms Krautil—Yes, in terms of Australia, we are a national centre of excellence.

Senator WONG—I have to say that, looking at some of the work you produce, I would agree with that. Do you think it was appropriate that EOWA was excluded from the task force?

Ms Krautil—EOWA has not been excluded, but EOWA has not had a seat at the table. EOWA is not a policy body. We have the operational knowledge of what companies are doing.

Senator WONG—But you do have a reasonable knowledge of various innovative solutions that companies have implemented or might implement at the workplace.

Ms Krautil—Absolutely. We present our awards in November, so we actually identify the leading employers. As you commented, the leading employers of women tend to have some very innovative work and family policies in place, because it is part of the jigsaw.

Senator WONG—Were those things fed into the data of the task force?

Ms Krautil—Not, officially. We had early discussions with the task force. The last time I spoke to the task force was last Easter, which was when I formally met a task force member. Since then I do not know what has happened to the task force.

Senator WONG—Was that meeting at your initiation?

Ms Krautil—I cannot recall. We must have made contact with the task force because they came down to our office in Sydney. It was probably a mutual meeting. We were both interested in talking to each other. At that stage the task force was gathering data. I now recall: it was an outcome of the OSW conference. I chaired a session on work and family at the OSW conference held in March. As a result of that I met the task force members from PM&C. They came down to talk about the data we had, particularly in the area of paid maternity leave and work and family stuff. It was as a result of that participation.

Senator WONG—So you initiated it as a result of your involvement?

Ms Krautil—Yes. We identified at the conference that we had some valuable information and the task force people became aware that we had some valuable information. It came out of that.

Senator WONG—You would not have needed to present it at the conference for the task force to be aware of it, surely. EOWA has a fairly long history of working in this area.

Ms Krautil—I think that is right. In terms of the specific information the task force was looking for, they had done a fair bit of work at that stage and were not aware of the full amount of information we had. I think that is fair, because we mainly do work with the business sector. We are operating out, rather than operating in—if that makes sense. We do most of our work with the business sector. Our brief is about improving outcomes for women in the workplace. While I have been there we have tended not to do a lot of work across government.

Senator WONG—While you have been director.

Ms Krautil—Yes. I have been there since 1999. In the early days EOWA were implementing the new act and there was a lot of work around that. We had to build our credibility with the business sector and we have now achieved that. It has only been in the last couple of years that we have actually had really good data. I can now be really proud of the quality of information the EOWA has, but it is fair to say that we have not had that quality right through the five years that I have been there.

Senator WONG—Has the agency done any work on developing policy options about the introduction of universal paid maternity leave?

Ms Krautil—No, we have not. That is done by the Sex Discrimination Commissioner. We provided a paper on the policy document. We have put forward what we know of companies and that is probably an excellent record too of where companies are at. That is why we are gathering data. This was the second survey we had done on paid maternity leave. There was a two-year gap between this one and the previous one. We have a watching brief but we are also interested in the whole picture of how our leading employers have a 100 per cent return of women from maternity leave. They do that with flexibility, paid maternity leave and some child-care assistance. We tend to monitor that really closely because, for us, that is the business case for the rest of the employers—this actually helps them make more money.

Senator WONG—The results that you have handed to me of your survey: are you able to give us a brief outline of what you say the results show?

Ms Krautil—In terms of the high points, we were pleased to see an increase. The report does not have page numbers but you can see the sample size; it was a significant sample size. It represents 63 per cent of the total companies that report to us—so 1,500 companies is very statistically valid.

Senator WONG—But it is only larger companies, isn't it?

Ms Krautil—The legislation covers companies employing over 100. We then break down those companies into what we call the smaller group, the medium size and the large. You are right, it is 100-plus. But we see different patterns when we go on. If I can take you through it. The section on the provision of paid maternity leave shows that we have gone to 36 per cent of our total employers reporting from 23 per cent two years before. That is a 50 per cent increase. On the next page you can see the length of leave. I do not have the comparative data here but we are seeing the most popular length of maternity leave in the private sector being

five to six weeks—35 per cent—and nine to 12 weeks—23 per cent. I think it is fair to say anecdotally that we are just starting to see more companies delivering 12 weeks maternity leave. For example, last week IBM announced 12 weeks maternity leave. They are the first ones in the IT sector to do that. We are seeing a movement from the better employers towards more maternity leave.

Senator WONG—So it is bolstering the case, is it, for a 12-week scheme?

Ms Krautil—Yes. The next one looks at the sectors, but there is one that shows the size of the companies. If you go to No. 5 it shows you the size of the companies. We break the companies down. Can you see that?

Senator WONG—Yes, I can see that.

Ms Krautil—It is 1,000-plus. Forty-four per cent of companies that employ 1,000-plus people have got paid maternity leave. The size of the company does seem to matter and we are seeing that the bigger companies are more likely to pay it, which is probably not surprising.

Senator WONG—No, it is not surprising. The Australian census of women board directors that you produced contains fairly poor figures—8.8 per cent of executive management positions are women, 8.4 per cent of board directors are women, 49.1 per cent of Australian companies have no women in management, and just over 47 per cent have no women on the board.

Ms Krautil—Correct.

Senator WONG—By international comparisons they are very poor figures, are they not?

Ms Krautil—They are disappointing statistics. The methodology is directly comparable to the US and Canada. We are running 10 or 15 years behind the US. I am not saying that the US have fantastic figures either. But for women in corporate and with board representation they are running at 16 per cent or 17 per cent. They have just announced in America that every Fortune 500 company now has one woman on the board. They started the census in 1990. For us, that is a really good benchmark when we are quoting that only 49 per cent of our companies have a woman on a board—that is, our top 200. We are talking about the top 500. We think the census provides us with excellent comparative data that we can look at to see how we are tracking. I think the results are disappointing. We are committed to doing a third census this year. That will be really valuable. We will have three years of data, so we will be able to get some trend data about how we are tracking.

Senator WONG—Are there any government policies which could impact on these figures?

Ms Krautil—In what way?

Senator WONG—Are there any government policies which might increase the number of women on boards or in management?

Ms Krautil—Not in the private sector, because the top 200 are private sector boards. I think the government can certainly influence public sector boards but can only encourage private sector boards. That is what we are trying to do at EOWAs—present the facts. In my

experience, there are many senior executives out there—remember that 45 per cent of the work force in Australia is now female—who think women are in these roles and it is not until you present the data about where the women are that they realise there is an issue.

Senator WONG—Apart from the work that you do in documenting what is occurring, are there any government policies which do encourage women being appointed to private sector boards?

Ms Krautil—Not that I am aware of. I may not be aware of the latest work that has been done at OSW. There is a new director, so I am not sure what is happening there.

Senator WONG—Have you read the CEDAW report?

Ms Krautil—No, I have not.

Senator WONG—You were not asked to provide any input?

Ms Krautil—We may have had input.

Senator WONG—It is the Australian report on implementing the Convention on the Elimination of Discrimination against Women.

Ms Krautil—When was the report published?

Senator WONG—I think in December.

Ms Krautil—I would remember that. I have not seen the report. It may have arrived at the agency. We may have provided a paragraph. We often provide a paragraph of information to the department for reports like that.

Senator WONG—One of the things that is identified as an Australian government initiative—this is in relation to item 4: the acceleration of equality between men and women—is its support for educative measures aimed at changing stereotypical attitudes that impede equality for women as well as initiatives focused on specific outcomes. Can you tell me what policies you are aware of that fall within that broad parameter that have any relevance—

Ms Krautil—To women in leadership?

Senator WONG—Yes.

Ms Krautil—In terms of our day-to-day work at the EOWA, we have a lot of material to assist companies on how to get women into management. Most companies will identify, under our act, that getting women into management roles, which they are all working towards, is an issue. I suppose EOWA's whole business deliverables, I think you call it, is delivering newsletters and web site material. So that is our core business and women in management is probably one of four key issues companies identify. But beyond that, I do not know what else it would be referring to.

Senator WONG—You said earlier that you had not done any work on developing policy options for universal paid maternity leave. Is that right?

Ms Krautil—No, not in terms of the detailed options.

Senator WONG—Have you done any work on any options in relation to maternity payment—that is, akin to leave but not just for working mothers?

Ms Krautil—No, not on formal options. In principle we would like to see the debate moved to parents and we would like to go beyond all the issues being about mothers. We talk a lot about engaging men and the role of fathers because we do not believe we will achieve gender equity until we get a more equal sharing of the caring responsibility. That is where we are at.

Senator WONG—Thanks very much.

[3.15 p.m.]

Office of the Employment Advocate

Senator WONG—Mr Hamberger, last time we were discussing your telephone survey. Do you recall this?

Mr Hamberger—The freedom of association survey.

Senator WONG—Yes. You said you would be making the results of that survey public. I presume the survey has been completed. I think the last time we met you were collating the results.

Mr Hamberger—We are still analysing the figures. It is an extremely complex and large survey. Our intention is to have the survey results released by the end of next month, so they are still not available.

Senator MARSHALL—You say they are extremely complicated. In what sense? Was it the collection or the process of collection?

Mr Hamberger—There were a lot of questions. We want to look at the responses by industry and occupation. There are various filters, I think are called, where some questions are relevant to people who have answered yes to one question or no to another. To do all the cross-tabulations is a major exercise. I spoke to one researcher about this before I came here. I am worried that she is going to get RSI because she has been tapping away at the computer day after day on all this. I said, 'I know they are going to be keen to get these results and I am keen to get it all out,' but I do not want her to cause herself serious damage. There is a lot of work involved in analysing. I am just talking about pulling out the figures. It is not a straightforward exercise.

Senator MARSHALL—In determining the filters and how they impact upon the survey results, how is that being sourced? Is that being done internally through the researcher you talked about or is that being done externally?

Mr Hamberger—It is being done internally. We contracted the social research centre to conduct the survey, to actually ask the questions. That was done last year. We wanted to get a robust sample, so the completed interviews included a mix of union and non-union members and there were 17 major industry and nine major occupational classifications. We achieved 3,156 completed interviews, 1,158 of which were with union members and 1,998 with non-union members. Then there is the analysis of the figures—that is, putting them all together and looking at the cross-tabulations. We are doing that in-house. This is probably the biggest survey of its kind. In fact, I would put money on this being the biggest survey of its kind ever conducted in Australia. The data is going to be enormously valuable to people who have an interest in these issues. We propose to, as well as release our own report, make the data

available to anyone who has an interest in it and wants to look at it. You can look at these things in all sorts of combinations and different ways.

Senator MARSHALL—You will be publishing the methodology as well, so it will be transparent?

Mr Hamberger—Yes. I have not actually issued the invitations yet, but we hope to hold a seminar for interested academics, unions, employers and so on later in the year. The data is available on a program called SPSS, which is a social science database software package. It will be available for researchers with academic or unions or whoever to have a look at because, at the end of the day, different people are interested in looking at the figures from different perspectives.

Senator WONG—When do you think you will—

Mr Hamberger—Release it?

Senator WONG—When will you finish the—

Mr Hamberger—We hope to have the report released at the end of March.

Senator WONG—Are you prepared to provide us with the data as soon as you finish collating it?

Mr Hamberger—Yes, but it will be on a CD-ROM. We will produce a report, and we could certainly give you the report and we can also give you the data as well if you like.

Senator WONG—If you could take on notice that, as soon as it is available, if you could provide us with both the report and the data.

Mr Hamberger—Yes.

Senator WONG—Can you tell us what proportion of the Australian workplace, on your statistics, is covered by currently operating AWAs?

Mr Hamberger—Just to step back for a second: if you look at people covered by current operational federal agreements of any kind, AWAs account for about 12 per cent or 13 per cent of people.

Senator WONG—Or award?

Mr Hamberger—No, agreement. If you look at the work force as a whole, it is about three per cent.

Senator WONG—Three per cent of Australian workers are covered by a current operative AWA?

Mr Hamberger—Yes, it is about that.

Senator MARSHALL—I did not understand the first part of that. You are saying you can actually have an AWA and be part of a federal agreement?

Mr Hamberger—An AWA is a federal—what I meant was that there are different kinds of federal agreements. Under the Workplace Relations Act there are, if you like, unions agreements made under 170LJ, LM and so on.

Senator MARSHALL—So it is six per cent of the total people with a registered agreement, whether it is an AWA or a certified agreement or an LK agreement?

Mr Hamberger—Of the total number of people covered by federal agreements—so in that game if you like—I think about 12 per cent or 13 per cent are covered by AWAs.

Senator WONG—And three per cent of the total work force.

Mr Hamberger—About three per cent of the total work force, yes.

Senator WONG—What do you understand to be government policy in terms of its own employment practices with regard to AWAs or certified agreements?

Mr Hamberger—I am honestly not the best person to ask about that because I have no responsibility for what the government's policy is in relation to their own employment practices.

Senator WONG—Don't you employ people?

Mr Hamberger—That is true, but I do not really have to worry about that. There are policy parameters that are issued by the Department of Employment and Workplace Relations, and all agreements that are entered into by any Commonwealth government body have to comply with those policy parameters.

Senator WONG—What are they, Mr Hamberger?

Mr Hamberger—There are a few pages of them; I do not have them with me.

Senator WONG—Very simply, if I am an employee and I am going to be employed by you, what do you understand my rights to be regarding whether I am on an AWA or a certified agreement?

Mr Hamberger—You should really be asking questions about this to the department of workplace relations.

Senator WONG—I did not realise it was such a difficult question.

Mr Hamberger—Basically my understanding is that it is up to each agency to determine under what kind of instrument they offer employment. All the staff in the OEA work under AWAs.

Senator WONG—Did you not understand that whether or not one is on an AWA or a certified agreement is a matter of the employee's choice? The employer can offer an AWA, but if the employee declines and says, 'No, I'd rather be on a certified agreement,' that that was appropriate?

Mr Hamberger—I do not know about appropriate. That is not the policy necessarily across the Public Service. You can offer certain kinds of employment on the basis of one or the other. I do not believe there is a government policy that says you must offer people the choice of an AWA or a certified agreement.

Senator WONG—What does the act say?

Mr Hamberger—It certainly does not say that.

Senator WONG—So your understanding of the act is that people can have a take it or leave it approach?

Mr Hamberger—There is no question at law that an employee could, for example, say to a prospective employee, ‘All other things being equal, if you want to come and work here to do this job, you have to sign this AWA.’ That has been established in a number of Federal Court hearings.

Senator WONG—So do you say that is your understanding of the—

Mr Hamberger—The law.

Senator WONG—No. Do you say that is your understanding of government policy?

Mr Hamberger—Honestly, I am not an expert on government policy across all employment in the Public Service. It is up to each individual agency how they do it. I do not actually know how all the different agencies operate. This is by the by, but there was a recent survey done by the Australian Public Service Commission and they found that 11 per cent—I think it was—of employees in the APS are on AWAs, and so therefore nine per cent are on certified agreements. There was almost nobody on anything else.

Senator WONG—Is this something you provide advice to DEWR or to government on?

Mr Hamberger—No.

Senator WONG—AWA employment within the public sector.

Mr Hamberger—No.

Senator WONG—It is the purview of DEWR.

Mr Hamberger—Yes.

Senator WONG—Going to the issues we discussed at length last time about young people and AWAs, the first was the youth web site, which I think you referred me to in the hearing, Mr McIlwain. What was the cost of establishing the web site?

Mr Hamberger—I would have to take that on notice. I am pretty sure I do not have that here. I will just have a look—no, sorry I do not have that with me.

Senator WONG—What was the cost of maintaining it?

Mr Hamberger—I can take that on notice, but obviously I could not give you a figure now.

Senator WONG—Do you know how many hits it has received?

Mr Hamberger—The same answer: I would have to take it on notice. I do not have those figures with me.

Senator WONG—So how long has it been operative? You do not have to take that on notice too, do you?

Mr Hamberger—I cannot remember exactly.

Mr McIlwain—From the best of my recollection it was October 2003—some date in October.

Senator WONG—You do not have that information here?

Mr McIlwain—No, I do not have the exact date. I believe it was October 2003.

Senator WONG—Mr Hamberger, are you seriously saying you do not have any figures on the expenditure for the construction of the site here?

Mr Hamberger—No.

Senator WONG—It is expenditure which occurred in the current financial year.

Mr Hamberger—Sorry, I do not have it with me.

Senator WONG—Could you take those three questions on notice.

Mr Hamberger—I will.

Senator WONG—One of the questions, which I think you took on notice last time, was about the number of AWAs for people under 18 and under 15. You answered it by saying you do not keep those records; you only keep them for people under 21. Is that right?

Mr Hamberger—We took a question on notice about that and we responded to it. We did a sample survey. Senator Collins suggested it, and we were happy to do it. It is a sample, so we cannot be absolutely sure. Somewhere between zero—it is more than zero, I would say—and 0.5 per cent of all AWAs would be for people under the age of 15.

Senator WONG—Are you still only retaining data for AWAs for people under 21?

Mr Hamberger—We have that data.

Senator WONG—You have that data. As I understand it, from the answers to the question on notice, you do not track the number of people under 15.

Mr Hamberger—Separately, no.

Senator WONG—You do not track the number of people under 18.

Mr Hamberger—No.

Senator WONG—So you only track the people under 21.

Mr Hamberger—We collect the data predominantly because of junior rates and awards and they, as you know, go up to 21.

Senator WONG—There are other public policy considerations, aren't there, to do with 15-year-olds and people who are not legally adults? Have you considered revising your data collection so you can actually track the number of people on AWAs under the age of 15 and 18?

Mr Hamberger—I have not considered it; that is the straightforward answer to your question.

Senator WONG—Do you intend to?

Mr Hamberger—We can work out how old somebody is, because we collect the date of birth.

Senator WONG—But you do not track it.

Mr Hamberger—We do not separately collate it. I understand what you are saying, and we will consider it. We always have to weigh up the issue of collecting data for, if you like, research or policy reasons and the resources involved.

Senator WONG—Are you saying you do not think there are any reasonable policy considerations associated with collecting the data on people who are under 15 and employed on individual contracts or people who are not legally adults and employed under individual contracts?

Mr Hamberger—The figure would not give you the figure for the number of employees under 15 who are employed on individual contracts.

Senator WONG—On AWAs.

Mr Hamberger—On AWAs. Obviously, if you as a senator think there are, then there are.

Senator WONG—I think we discussed last time that parents might think it is relevant. The public might think it is relevant. You answered one question on notice regarding states—I think Victoria was the only one you referred to—where a permit is in fact required to employ someone under 15.

Mr Hamberger—Senator Collins asked at the last hearing whether I was aware that most states required permits for employees under the age of 15. I said no, I was not aware of that. We subsequently did some research and found that it is not actually correct that most states require permits.

Senator WONG—Let's deal with Victoria.

Mr Hamberger—It is one state that requires this.

Senator WONG—It is required in Victoria?

Mr Hamberger—I understand so.

Senator WONG—In question on notice W140-04 I asked:

If persons under the age of 15 are on AWAs, does the OEA check that the relevant child employment permits are held by the employer?

Your answer states:

The OEA is not aware of any requirement to hold such a permit other than in Victoria. The Workplace Relations Act sets out the filing and additional approval requirements in the NDT that the OEA is to have regard to when assessing AWAs. Whether someone has a permit to work or not is not a matter that the OEA can take into account in that assessment.

Are you seriously asking us to accept that you do not have to have regard to whether someone can legally work before you assess whether the agreement they are on passes the no-disadvantage test?

Mr Rushton—The issue is that a permit may be a precondition to work, as may be an immigration visa or whatever, but it is not the issue for the—

Senator WONG—Yes, we know the government does not like following up illegal migrant workers either.

Mr Rushton—The issue is that we have to process the AWA pursuant to the statutory test as set out in the answer there. The issue of whether there is a precondition for work is, as set out there, a state matter. If there is no such condition, or if the person cannot work, then the AWA simply does not apply. It is a question of the application of the AWA, not a question for the processing of the AWA before us.

Senator WONG—It is a very good bureaucratic answer, Mr Rushton—a very legalistic answer. But at the end of the day what the OEA is saying to the public is: ‘We know in Victoria that people under 15 need a permit to work, but we are not going to have regard to that if an employer files an AWA for approval with us.’ That is essentially your position.

Mr Rushton—I cannot add to the answer I have given you.

Senator WONG—Isn’t that correct, Mr Hamberger? That is your position.

Mr Hamberger—We apply, and can only apply, the legislation that we are set up under.

Senator WONG—You could advise the employer that your understanding is that a permit is required. You could make that a precondition for assessment of an AWA for people under 15.

Mr Hamberger—No, I do not think we could. I am sorry, with due respect I do not think we could.

Senator WONG—You could not say to the employer, ‘Look, you better go and get a permit’?

Mr Hamberger—We could say anything we like, but legally it would be incorrect.

Senator WONG—I do not know that many employers are going to take out a mandamus answer if you fail to approve an AWA because they do not have the relevant permit.

Mr Hamberger—We can certainly look at providing that advice.

Senator WONG—I think you said that last time.

Mr Hamberger—We are looking at providing that advice. When we next update the web site we will probably include that advice on it, along with other similar relevant considerations.

Senator WONG—You may need to take this question on notice. I think you previously advised at the November 2003 estimates that there were 21,600 AWAs in the Commonwealth Public Service. How many AWAs are there now and what proportion of the total number of current AWAs in the Australian work force does this constitute—that is, what proportion of the three per cent?

Mr Hamberger—I have a bit more information on that now. I have just read a survey that the APS Commission conducted and, to be honest, it is probably more accurate. They did a survey of all the employees and asked them what they were on.

Senator WONG—I am happy for you take that on notice.

Mr Hamberger—Okay.

Senator WONG—And what proportion of the total number of Commonwealth public servants are covered by AWAs? In your annual report, one of the client service charter objectives was filing at least 80 per cent of AWA applications within 20 working days

Mr Hamberger—To assess and finalise them, yes.

Senator WONG—And you achieved 74 per cent within that period?

Mr Hamberger—Yes.

Senator WONG—What is the average length of time taken to get an AWA approved?

Mr Hamberger—I would have to take that on notice. We do not actually calculate it as an average.

Senator WONG—What is the longest period of time?

Mr Hamberger—I could not say. I would have to take that on notice.

Senator WONG—Can you also tell me the average length of time for rejection of an AWA?

Mr Hamberger—We will see if we can work it out. We would have to take it on notice.

Senator WONG—Similarly, what is the longest period of time for a rejection?

Mr Hamberger—When you say rejection—

Senator WONG—Where it does not pass the no-disadvantage test. I assume that is what the 20 days is.

Mr Hamberger—Yes. It is just that there other grounds than the no-disadvantage test for rejecting an AWA. We actually cannot reject an AWA on the no-disadvantage test. We can refuse to approve it and we can refer it to the commission.

Senator MARSHALL—On what grounds do you reject it then?

Mr Rushton—We can refuse it on the basis that it does not pass the additional approval requirements. That is the only basis for refusal. If it does not meet the no-disadvantage test then it must be referred to the commission. They then look at it in relation to the no-disadvantage test, and they can also look at it in relation to ‘not contrary to the public interest’.

Senator MARSHALL—Do you make representations to the commission to give your view that it does not meet the no-disadvantage test?

Mr Rushton—No, we do not make representations to the commission.

Senator MARSHALL—Have there been agreements that you have determined do not meet the no-disadvantage test but have subsequently been approved by the commission?

Mr Hamberger—Yes.

Senator MARSHALL—How many of those have there been?

Mr Rushton—Just to clarify that, there have certainly been some agreements that have been approved with further undertakings by the commission and there have been some that

have been approved on the ‘not contrary to the public interest’ test that we would have found did not meet the no-disadvantage test. I am not quite sure which question you are asking.

Senator MARSHALL—If you would break the information down into those categories, I am happy to receive it in those terms.

Mr Rushton—Okay.

Senator WONG—In my previous question I was referring to the approval of 80 per cent within 20 days. Presumably from that you should also track rejection and approval.

Mr Hamberger—Yes.

Senator WONG—Your 2002-03 annual report states that around 119,004 AWAs were filed, of which 102,474 were approved. That leaves about 16,500 not approved. Is that right?

Mr Hamberger—Yes, but that does not necessarily mean they were refused. During the last financial year, in particular, and again into this year we have had a significant increase in the number of AWAs, as referred to in the annual report. In fact, what has happened is that AWAs have built up; there are more sitting there waiting for assessment. There has been, if you like, a backlog built up of AWAs needing assessment.

Senator WONG—So you say of the 16,500—

Mr Hamberger—They have not necessarily been refused; they have just not been approved yet but they might get approved subsequently.

Senator WONG—There are some which are withdrawn, are they not, if your officers raise issues with them?

Mr Hamberger—Yes.

Senator WONG—And there would be some which would fail the no-disadvantage test and would be rejected, in a sense.

Mr Hamberger—Yes.

Mr Rushton—I am sorry to be pedantic, but they would be the ones who would be referred to the commission if they failed the no-disadvantage test, rather than refused.

Senator WONG—If you say to the employer, ‘This fails the NDT,’ they withdraw them?

Mr Hamberger—Sometimes, yes.

Senator WONG—Or they resubmit.

Mr Rushton—Yes, they can withdraw them.

Senator WONG—You refer some to the commission?

Mr Hamberger—Yes.

Senator WONG—Are you saying you do not reject any yourselves?

Mr Hamberger—Yes, we do, but not on the no-disadvantage test ground. We can refuse AWAs on the grounds of failing to meet the so-called additional approval requirements which go to issues such as genuine consent. That would be the main ground.

Senator WONG—Of the 16,500, approximately what proportion fall within the non-approval, rejection, referral to the commission et cetera categories—that is, they are not ones which are just in the pipeline waiting to be filed but ones where you have said to the employer, ‘Look, there are problems with this, for whatever reason,’ or you have referred it to the commission or it has been withdrawn or it has been rejected out of hand by the OEA? What proportion of those would fall into that category?

Mr Hamberger—In the annual report you will find, for example, that 7½ per cent of AWAs were approved with undertakings, which meant that we were not satisfied they met the no-disadvantage test when they were first submitted.

Senator WONG—I am sorry to interrupt you, but they would—

Mr Hamberger—They would have been approved eventually.

Senator WONG—I had not asked the question.

Mr Hamberger—I am sorry.

Senator WONG—They would have required some toing-and-froing between OEA staff and the employer regarding the undertaking.

Mr Hamberger—Yes.

Senator WONG—So that is 7½ per cent.

Mr Hamberger—Slightly less than 0.1 per cent of all AWAs were refused in that financial year—so very few—and only 0.2 per cent of all AWAs were referred to the Industrial Relations Commission. As you say, quite often when we identify there is a problem—not just with a no-disadvantage test—employers withdraw them and there would be a figure for withdrawal. I do not know why but we did not include it in the annual report. We could probably get it for you. Occasionally employees withdraw them as well.

Senator WONG—Can you get me the figure for withdrawals?

Mr Hamberger—Yes.

Senator WONG—We need to set a time frame.

Mr Hamberger—I am sorry, we do have a figure for withdrawals. There were about 830 AWAs withdrawn in that financial year.

Senator WONG—What is that out of? What is our sample size here? Is it the 119,000?

Mr Hamberger—Good question.

Senator WONG—Are we comparing apples with apples or not?

Mr Hamberger—I think it means finalised AWAs. It would be about 105,000. I would have to work it out exactly. The 0.2 per cent would be 0.2 per cent of about 105,000.

Senator WONG—So 0.2 per cent, 0.1 per cent and 7½ per cent of 105,000.

Mr Hamberger—Yes.

Senator WONG—Plus around 830 withdrawals.

Mr Hamberger—That is a bit less than one per cent.

Senator WONG—That is a very low number of withdrawals. I would have thought it would have been a bit higher than that.

Mr Hamberger—It has come down a lot; it used to be higher.

Senator WONG—This is in the 2002-03 year?

Mr Hamberger—It is in that financial year.

Senator WONG—Are those proportions about what is occurring now?

Mr Hamberger—Off the top of my head, I do not know. They have been reasonably steady through the life of the OEA. We have put a lot more emphasis on proactively advising employers and employees about the process so that when they submit them they are okay. We did manage to reduce the amount of undertakings we needed by putting more effort into telling employers what they needed to do to pass the no-disadvantage test, for example.

Senator WONG—But essentially would you say that for 2003-04 thus far, it is tracking in a similar pattern?

Mr McIlwain—Yes. Thus far in the current financial year the pattern would be broadly the same as that which we saw in 2002-03.

Mr Hamberger—I am sure Mr McIlwain is right but we might just check that.

Senator WONG—By my rough calculations you are looking at around nine per cent which fall into the categories I talked about. Is that right?

Mr Hamberger—Yes.

Mr McIlwain—Yes.

Senator WONG—You are probably aware that the government has proposed some legislation, which is currently in the parliament, that would enable AWAs to commence operation from the time that they are signed.

Mr Hamberger—Yes.

Senator WONG—That would mean, would it not, that AWAs—including the nine per cent where there were problems sufficient even for the OEA to do something—would commence under this legislation?

Mr Hamberger—Yes. Some do now. This is not quite the same but, if you are a new employee as defined under the act, once your filing receipt has been issued the AWA commences. There are already some employees for whom the AWA is legally in place before we have actually assessed it.

Senator WONG—But the numbers are not the sorts of numbers—

Mr Hamberger—They would be small; it would be a minority.

Senator WONG—The numbers are not the sorts of numbers we are talking about.

Mr Hamberger—No. I am not sure exactly what the number would be, but it might be 20 or 30 per cent of all AWAs. It is not insignificant.

Senator WONG—Do you think having a situation where a contract is given statutory force and then withdrawn later, which is essentially what would happen in respect of that

category of nine per cent under this new legislation, creates some problems for employers and employees?

Mr Hamberger—I do not really want to get into the policy. I do not really think it is appropriate for me to express my personal views about policy matters. I would make an observation that in reality—and it does not matter whether it is an AWA, a certified agreement or a state enterprise agreement—what tends to happen not legally but in practice is that once people enter into an agreement they follow the agreement from the moment they sign it. I am not advocating that because it would not generally be legal in most jurisdictions, but in practice that is what people tend to do. It is just an observation; I am not saying it is good or bad.

Senator WONG—Let us look at it this way. What if an employee whose AWA falls within this nine per cent that we are talking about goes to work with his employer and, because the act is passed, the AWA is immediately effective. So they arrange their child care and other family arrangements in accordance with the hours of work and so forth in the AWA. Then you subsequently find it does not pass the relevant statutory tests. Isn't that a rather significant inconvenience for the employee and potentially for the employer?

Senator Abetz—I am not sure that this is a question for the OEA. There are appropriate debating points to be made, and that is fine.

Senator WONG—What do you think, Minister?

Senator Abetz—What I think is not a matter for Senate estimates. We are dealing with the financial allocations and budgetary allocations. That is how we ought to be focusing our questions and answers.

Senator WONG—Mr Hamberger, with respect to the sorts of scenarios that could arise, have you been asked by the government to do any work on looking at what the effect of this bill would be?

Mr Hamberger—Not that I am aware of. I point out again, just as an observation, that there is a provision in the bill, as I understand it, to enable any shortfall that is identified to be recovered by the OEA.

Senator WONG—That is only money.

Mr Hamberger—That is right.

Senator WONG—It does not deal with any other problems which might arise from the change in contract or change in employment conditions.

Mr Hamberger—I really do not have anything to add. They are policy issues.

Senator WONG—You were not asked to investigate some of the consequences of this legislation, particularly in respect of the nine per cent of AWAs which we have been discussing?

Mr Hamberger—This proposal has been around for quite a long while. It has come back in various forms in various bills. I think there was some consultation with the OEA some years ago, but I do not think it is appropriate to discuss the kind of policy advice we might or might not have given to government at that time.

Senator WONG—In regard to the issue you raised before—the power of the OEA to recover moneys underpaid as a result of any change in conditions—how much additional money will you be getting?

Mr Hamberger—We do not know. I cannot speculate about what resources we might have in future years.

Senator WONG—Has anything been budgeted in the forward estimates for this additional function of yours?

Mr Hamberger—Not that I am aware of. But I am not going to get into a discussion about what might happen in budgets in the future.

Senator WONG—No, I am asking what the budget says. There is legislation before the parliament. You have raised, correctly, the fact that the legislation gives you additional functions. I am asking: what has been allocated to resource you for those additional functions?

Mr Hamberger—That would have to be a matter determined in the budget process.

Senator WONG—In other words, there is nothing allocated at the moment.

Mr Hamberger—There is nothing allocated for this financial year. But our budget for next financial year has not been determined yet. It is up to government to determine.

Senator WONG—Have you internally costed those functions?

Mr Hamberger—I do not think budget matters for next year are really something that we should be—

Senator WONG—I can ask you what you have done.

Mr Hamberger—You can ask.

Senator WONG—This is an estimates. I am not asking how much at this stage; we might get to that. I am asking whether you have done internal work costing this additional function.

Mr Hamberger—We have looked at it in broad terms but not in detail.

Senator WONG—Has that advice been provided to government?

Mr Hamberger—Not at this stage. I guess we will worry about it when it becomes law.

Senator WONG—I am not asking what is in it; I am asking when. Has it been provided to government and if so when?

Mr Hamberger—It may have because we looked at this issue some years ago.

Senator WONG—You are head of the OEA. You have said that you have done internal costings on this. Has it been provided to government and if so when?

Senator Abetz—Just general costings.

Mr Hamberger—I honestly cannot recall. If the legislation is enacted it will have a number of consequences for the OEA—not enormous ones but there will be some consequences. We would obviously look at whether our budget should be modified in the light of that.

Senator WONG—When was that advice provided to government?

Mr Hamberger—It would have been when the legislation was first mooted several years ago.

Senator WONG—Are you saying that you have provided no additional advice for several years? Surely things cost a bit more these days.

Mr Hamberger—There may have been a bit.

Senator WONG—Okay. When?

Mr Hamberger—I cannot—

Senator WONG—A bit in relation to—

Mr Hamberger—Basically, these proposals were put up three years ago. We were consulted at the time. We gave advice at the time. They are still pretty much the same proposals. They might have been modified in a very marginal way but I do not think there has been a need to give additional advice.

Senator WONG—Which is it? Have you provided further advice to government regarding the issue of the cost of additional functions being given to the OEA or have you not?

Mr Hamberger—I do not believe we have.

Senator WONG—So is your answer, ‘We provided advice as to these costings three years ago.’

Mr Hamberger—I cannot recall off the top of my head whether there were figures on costings. I am sorry; I cannot help you. I do my best.

Senator WONG—So what is the answer?

Mr Hamberger—We will have to check. We will have to take it on notice. But obviously we appreciate your support for us getting additional funding. It is a pretty good point you raise.

Senator WONG—This is extraordinary.

Senator Abetz—I am not sure if this is part of the Labor strategy.

Senator Marshall interjecting—

Senator Abetz—Oh, it is not? We will get that on the record.

Senator WONG—I am just asking when you provided the advice to government regarding how much it will cost you. If your answer is, ‘We have not provided any further advice on the issue of costing of that additional function that is proposed in the bill for three years,’ that is fine.

Mr Hamberger—That is what my understanding is.

Senator WONG—That is your answer, is it?

Mr Hamberger—Yes. I just do not like to say things about something if I cannot remember it. I do not believe there has. I will check. If that is incorrect I will get back to you.

Senator WONG—Thank you. Have you provided any further advice to government regarding the legislation since the advice you provided three years ago when a form of this bill was first introduced?

Mr Hamberger—I think it would only have been in relation to any changes in the original version of the bill. There might be some minor changes, marginal changes. So there would have been some.

Senator WONG—Have you considered this issue of what to do with the nine per cent or the consequences for the people who fall within that nine per cent we were discussing? Do you want me to canvass what was in the nine per cent?

Mr Hamberger—No, I understand the nine per cent. I would have to go back and check the bill. It would be determined by the bill and what gets finally passed.

Senator WONG—No. Did you provide advice to government regarding the consequences for employees and employers of this legislation making effective AWAs from inception—

Mr Hamberger—We did—

Senator WONG—Let me finish the question, Mr Hamberger. It might be quicker. Now I have forgotten it, and I will have to start again—see what I mean? Have you provided advice to government in relation to the consequences for employers and employees of AWAs becoming legally effective from their inception for those AWAs which are either withdrawn or rejected through the mechanisms we have discussed?

Mr Hamberger—We would have three years ago or whenever it was.

Senator WONG—Have you provided any further advice since three years ago?

Mr Hamberger—I do not believe so.

Senator WONG—Do you consider that there are some problematic consequences for both employers and employees of having contracts effective which may subsequently be deemed to be ineffective at law for whatever reasons?

Mr Hamberger—That is a policy issue that I do not think I should canvass.

Senator WONG—You do not think there are any consequences?

Mr Hamberger—No, I am not saying that; I am saying I do not think I should be canvassing my view about legislation that is currently before the parliament.

Senator WONG—Have you previously provided advice to the government on that issue?

Mr Hamberger—We would have provided advice about those kinds of issues, but I do not think I should be telling you what the advice was.

Senator WONG—I am not asking what the advice was.

Mr Hamberger—No, but we would have provided advice.

Senator WONG—So you have provided that advice in relation to the bill three years ago.

Mr Hamberger—Yes. The legislation is broadly the same now.

Senator WONG—Have you provided advice in the context of the current bill?

Mr Hamberger—I do not believe so, no.

Senator WONG—Mr Rushton does not look so clear.

Mr Rushton—No.

Mr Hamberger—No, we have not.

Senator WONG—So are you saying that the government is putting forward this legislation in terms only of OEA advice you put forward three years ago? I just want to make sure I understand your position.

Mr Hamberger—Yes, that is my understanding.

Mr Rushton—The legislation is substantially the same.

Senator WONG—That is all for that section of the OEA.

Proceedings suspended from 3.58 p.m. to 4.18 p.m.

Senator WONG—Mr Hamberger, I understand that the Western Australian government has written to you regarding the application of the no disadvantage test to AWAs, with particular reference to the issue of so-called voluntary overtime. Do you recall receiving that correspondence?

Mr Hamberger—Yes, I do.

Senator WONG—Is it the case that, in applying the no disadvantage test, your officers do not account for overtime which you class as voluntary?

Mr Hamberger—No, that is not correct.

Senator WONG—It seems to me that the Western Australian government is of the view that you are taking into account irrelevant considerations when applying the NDT.

Mr Hamberger—I think their position is wrong.

Senator WONG—Can you explain to me what you do in relation to voluntary overtime and the NDT?

Mr McIlwain—I think I can explain that. If we conclude that the employee is allowed a genuine and effective choice of the hours that he or she works so that he or she may effectively choose their preferred hours, we will calculate those hours that might be additional hours under the award—for example, overtime—or hours attracting penalty rates under the award as ordinary hours for the purpose of the no disadvantage test. I stress that that approach is taken only in those cases where we are entirely sure that the choice given to the employee was a genuine and effective choice. So for example—

Senator WONG—Do you speak to the employee about it?

Mr McIlwain—We may speak to an employee but not invariably so.

Senator WONG—Even if I accept, which I have to say I do not, the distinction you are making, surely if you are going to essentially alter the NDT in effect on the basis that there is an employee's choice, you would need to speak to them to ascertain if that were the case.

Mr McIlwain—We may speak to the employee, but—

Senator WONG—Otherwise whose word do you take?

Mr McIlwain—We take the word of the parties that have signed the AWA—the parties being the employer and the employee that have entered into the agreement. We may speak to the employee, we may speak to the employer or we may find that we have enough evidence in the form of the terms of the agreement and other information provided to conclude that we are sure that an effective and genuine choice has been offered to the employee.

Senator WONG—How can you conclude that simply from reading the terms of the agreement?

Mr McIlwain—We are able to conclude that because we see in many cases a model clause that the OEA has developed to make exactly the offer I have been talking about—an effective and genuine offer for an employee to choose the hours which he or she would prefer to work. If we see that model clause, we can be sure that that choice has been a genuine and effective one. In the absence of—

Senator MARSHALL—Has a copy of that clause been tabled?

Mr McIlwain—I believe it has been tabled in the past or provided as an attachment.

Senator MARSHALL—It is just as easy to provide it again. That would be useful to us.

Mr McIlwain—Sure, we can provide it again.

Senator WONG—Do you have it here? If this is the clause on which you are basing essentially a change in the test then—you do not think it is a change in the test?

Mr McIlwain—It is not a change in the test. The NDT is still applied. However, it is a change in the information that is available to us in conducting the NDT.

Senator WONG—Mr McIlwain, you can use a whole range of bureaucratic language, if you want, but if you exclude—

Senator Abetz—No. **CHAIR**—He is using the correct term, Senator.

Senator Abetz—If you want clarification, that is fine, but I do not think we need to use that sort of terminology.

Senator WONG—‘Bureaucratic language’ is bad terminology?

Senator Abetz—Yes, especially in the tone it was said. The *Hansard* will not pick that up. I encourage you to keep it at the civil level that it has been at.

Senator WONG—I will remind you of that in the Senate, Minister.

Senator Abetz—Good. As long as you abide by it, I will be very happy.

Senator WONG—Mr McIlwain, if you make a determination that you are going to exclude the penalty rates applicable to certain hours on the basis that you decide that the employee voluntarily works those hours, that will change the outcome of the application of the test, potentially?

Mr McIlwain—Yes.

Senator WONG—You say you do not invariably speak to employees. How often do your officers speak to the employees to determine if a ‘real and genuine choice’ has been made? I think those are your words.

Mr McIlwain—I am unable to tell you off the top of my head. I do not have that information with me.

Senator WONG—Do you record it?

Mr McIlwain—The information would not be recorded in a searchable database.

Senator WONG—Is there a protocol or standing instruction to your officers when such agreements are assessed as to what they go through to ensure there is a real and genuine choice?

Mr McIlwain—There is. The issue is covered clearly and at some length in the AWA procedures guide, which all our officers use when conducting a no disadvantage test.

Senator WONG—In that guide, in relation to this issue, is it your instruction, where the model clause is contained in the agreement, that people are to disregard penalty rates for the purposes of assessing the NDT?

Mr McIlwain—The advice would be that, where the model clause is present, and all other things being equal, the hours worked by an employee under the AWA that would attract penalty rates under the award may be assessed for the purpose of the no disadvantage test as though they were ordinary hours.

Senator WONG—That is the advice?

Mr McIlwain—That is the advice.

Senator WONG—So there is nothing that requires them, if the model clause is present, to go beyond the face of the clause and check with the employee as to what their understanding is?

Mr McIlwain—There is no requirement for them to check with an employee.

Senator WONG—And you do not track if any officers in fact do check?

Mr McIlwain—We do not collect that information in a database that is searchable.

Senator WONG—The concern raised by the Western Australian minister is that people are actually being disadvantaged by your practice.

Mr Hamberger—Can I give you an example of the kind of thing that might be covered by this arrangement?

Senator WONG—That is not my question. I asked a particular question.

Mr McIlwain—Perhaps you might repeat it for my benefit.

Senator WONG—The view which has been put to the OEA by the Western Australian minister for industrial relations is that this is disadvantaging employees. Do you disagree with that?

Mr McIlwain—The OEA does disagree with that view.

Senator WONG—Mr Rushton might want to answer this. There is some discussion in the case law as well, in matters before the commission, about the application of the NDT.

Mr Hamberger—The federal Industrial Relations Commission, with respect to them, has had a diversity of views on this issue. There was one case last year, for example, where a senior deputy president approved an agreement along similar lines to us. Then it went on appeal and there was a split decision, so you ended up with two presidential members agreeing with the approach that we took, one presidential member not agreeing with it and one commissioner. You are right, and we have been following that case law, but I think there is a diversity of views.

Senator WONG—The MSO security officers case?

Mr Hamberger—Yes.

Senator WONG—Were Commissioner Lewin and DP Watson in the minority there?

Mr Hamberger—No. What I am saying is that there was a deputy president or senior presidential member who took one approach.

Senator WONG—Yes, one.

Mr Hamberger—It was a single person decision.

Senator WONG—This is a full bench where you have a majority decision.

Mr Hamberger—It went on appeal and there was another presidential member in a minority, so you had a presidential member and a commissioner who did not agree and a presidential member who agreed with the original decision. I know of the workings of appeals in the commission.

Senator WONG—Yes, you lost on appeal.

Mr Hamberger—They lost on appeal. What I am saying is that in fact there is a diversity of views on the commission, but we have to form our own judgment about how to do this.

Senator WONG—Hang on. Am I understanding your argument correctly: you agree that the proposition which the WA government is contending was confirmed by a majority of the full bench of the commission. Do you agree with that?

Mr Hamberger—It would be consistent with the position of the WA government.

Senator WONG—Yes. You are now telling me your position is that there are a diversity of views because a single commissioner or DPs have made a different decision.

Mr Hamberger—Yes, but we are not—

Senator WONG—Isn't there a thing called appeals and then you go to a full bench? When I was a lawyer that is how it worked.

Mr Rushton—I think the point the Employment Advocate is making is that there was a single commissioner or presidential member—I think it was Deputy President Polites—who made the initial decision and went the way of approving the certified agreement, and then there was a two to one decision of the full bench.

Senator WONG—You are a lawyer, aren't you, Mr Rushton?

Mr Rushton—I am.

Senator WONG—So what is the state of the law at the moment? There is a majority decision which is consistent with the WA government's position, is there not?

Mr Rushton—I do not think you need to hear my opinion of the law. It is probably not appropriate at Senate estimates.

Senator WONG—Am I incorrect—do I misunderstand—that there is a majority decision from a full bench which you are not—

Mr Rushton—The point the Employment Advocate is making is that two of the members of the commission formed a view in one way and two formed another.

Senator WONG—Yes, and one was overruled on appeal. You are maintaining your position, despite the fact that the proposition for which you contend has been overruled on appeal.

Mr Rushton—In one particular matter.

Mr Hamberger—Yes. I believe that our position is entirely correct.

Senator WONG—You are right and the full bench of the commission is wrong. Is that how it works, Mr Hamberger?

Mr Hamberger—I believe that I am correct, yes. Can I give you an example of why I believe I am correct, Senator? I am an independent statutory officer—

Senator JOHNSTON—I would like to hear it, Mr Hamberger.

Mr Hamberger—and I have to form judgments for myself. I will give you an example of what might happen with an AWA. The award says, 'Time after 6 o'clock is overtime.' That would be pretty common in white collar awards. An employee says to their employer, 'I want to spend time with my kids on Wednesday morning because I want to help out in the classroom with reading and I am happy to work back on Thursday night to half past seven because my husband can look after the kids then.' Under the award, the employer would be obliged to pay overtime rates for the work from 6 o'clock to 7.30. The employer is unlikely to agree to that proposition if they are going to comply with the law.

Senator WONG—Can I stop you there? That makes assumptions about the spread of hours clause in the award, doesn't it?

Mr Hamberger—Yes, I am just giving it as an example. That is a fairly common spread of hours clause.

Senator WONG—Six o'clock?

Mr Hamberger—Yes, in clerical awards. So the employee says, 'I want to reach that arrangement.' If you take the logic of what the Western Australian government said, that employee is being disadvantaged if the employer agrees to allow them to do that unless they pay them penalty rates. I do not agree with that position; I think it is clearly wrong.

Senator WONG—That is a policy decision. Isn't your job to effect the disadvantage test in accordance with the law? What you are telling me today is that you have decided that your

view of what the NDT should be is correct, despite the fact there is a majority decision of the full bench of the federal commission which holds a contrary view.

Mr Hamberger—I believe I have to form my view independently.

Senator WONG—If you have a copy of the model clause, Mr McIlwain, I will get it copied so I can ask you some questions.

Mr McIlwain—Yes, I have a copy.

Senator WONG—Mr Hamberger, just to clarify the example you gave: if the overtime hours were non-voluntary, do I understand the OEA's position to be that the penalty rates applicable would be considered as part of the NDT?

Mr Hamberger—Yes.

Senator WONG—How does one distinguish between voluntary and non-voluntary overtime?

Mr McIlwain—This is covered in our AWA procedures guide. If you like, I can—

Senator WONG—I can read this in front of me. Essentially, what you seem to be saying is:

... where an employer offers the employee the choice of standard or non-standard hours, and the employee consciously chooses to work non-standard hours, those hours are to be considered as voluntary and are to be calculated at ordinary hourly rates.

Mr McIlwain—That is just so. That is directly from them.

Senator WONG—You do this without necessarily discussing it with the employee to confirm that there is a conscious choice?

Mr McIlwain—Yes. It is not required of staff conducting the NDT that they talk to the employee.

Senator WONG—If they see the preferred hours model clause that you have provided me with, do they speak to the employees?

Mr McIlwain—If there were circumstances that led them to believe that the model clause could not be effective or complied with, they would speak either with the employee or with the employer. If the position were such that intrinsically the hours at which the job was done would attract penalty rates under the award—for example, a nightwatchman—the staff member, seeing the use of the model clause, would contact the employer or the employee to pursue that further, on the basis that the choice must be a real and effective choice. In the case of a nightwatchman, clearly, that could not be the case.

Senator WONG—Under this model clause that you have provided me with, the span of hours is moved from 7 a.m. to 10 p.m. Within it, an employer could say to an employee, 'I need you to work tonight till 10 p.m.' Is that correct? In other words, non-voluntary overtime could occur within this clause, could it not?

Mr McIlwain—If the hours that the employee is directed to work fall outside those for which they have expressed a preference, you will see above that the employer is required to pay those at the penalty rate, and the NDT calculates those hours also at the penalty rate.

Senator WONG—But you do not know what the preferred hours are.

Mr McIlwain—We do, Senator. There is a missing—

Senator WONG—Hang on. I understand that this clause enables a preferred hours arrangement to be instituted. It is facilitative in that sense. Is that correct?

Mr McIlwain—That is correct.

Mr McIlwain—That is correct.

Senator WONG—You do not know what will happen to that in terms of its operation. As I understand it, what could happen is that John or Jane Smith could say, ‘I want to work these hours; these are my preferred hours,’ and then three weeks or a couple of months down the track the employer could say, ‘I can’t do that anymore. Could you change to these?’ and she does. If the change includes hours which would otherwise have attracted a penalty rate, isn’t she disadvantaged?

Mr McIlwain—I am slightly confused because the clause says:

If the company directs you to work overtime for which you have not expressed a preference or outside your standard or preferred ordinary hours of work, you will be paid the applicable rate in the form below.

Senator WONG—Do you think employees on an AWA with this clause understand that?

Mr McIlwain—Yes.

Senator WONG—Or do they just understand the 7 a.m. to 10 p.m.?

Mr McIlwain—No. Accompanying the preferred hours model clause is a form, and that form allows the employee to stipulate their preferred hours. That becomes part of the clause. It becomes, when the AWA is approved, part of the legally binding agreement. The employee has stipulated their preferred hours. The clause is, I think, crystal clear on the point that hours directed by the employer outside the hours stipulated by the employee attract the relevant penalty rate.

Senator WONG—What does it say about the employer asking you to change your preferred hours?

Senator JOHNSTON—That is in the last paragraph: ‘you are able to change your preference’.

Senator WONG—No—the employer asking the employee to change the preferred hours.

Mr McIlwain—Without the employee’s active consent, that would be a direction. It would be a direction for an employee to work hours other than those which they had already identified as their preferred hours and would therefore attract the penalty rate.

Senator WONG—But you have already approved the AWA. That is right.

Mr McIlwain—Yes, we have approved the AWA but what you are raising here is an issue of compliance with an approved AWA, which is an entirely different matter. We pursue complaints of AWA breaches very vigorously.

Senator WONG—What I am pointing out is that you are approving AWAs which, in themselves, have essentially a lower NDT, in effect, on a presumption as to how people will

in fact operate. Mr Hamberger, is it really your view that this clause adequately protects employees who are directed to work certain hours by their employer?

Mr Hamberger—My experience, from talking to lots of employees over many years, is that the ability to elect to work preferred hours is extremely highly sought after by many employees.

Senator WONG—I do not disagree with that. What I disagree with is this—

Mr Hamberger—You seem to be wanting to take a position that it is not an advantage.

Senator WONG—I did not say that either. What I am saying is that it seems to me you were adopting a position inconsistent with the law.

Mr Hamberger—I think that is quite incorrect. If you take the Western Australian government's line, they seem to be saying, 'Employees being able to choose the hours they work is an extraneous consideration because it's not in the award.'

Senator WONG—You are misquoting. It is specifically in relation to the language used in the full bench decision which talks about the distinction as to voluntary or involuntary being an irrelevant consideration for the purposes of the NDT. That is what the language is picking up. I am not going to go into an argument, though, about what was written and what was not. As I understand it—and you have not said anything to contradict this—your position is: 'We will maintain the distinction between voluntary and involuntary overtime for the purposes of essentially changing how the no-disadvantage test will be applied, notwithstanding the fact that the way we are approaching it is inconsistent with the majority decision of the full bench.'

Mr Hamberger—I have to make a decision based on my reading of the law. We have had this position for many years. I am not bound by full bench decisions of the commission but I do have regard to commission decisions. I believe that this is a provision that enables a lot of employees to get a lot of benefit. The line that things that are not specified in the award are somehow extraneous in considering the no-disadvantage test, I think, is incorrect.

Senator MARSHALL—If you are not bound by decisions of the Australian Industrial Relations Commission, is anybody—or should anyone else be?

Mr Hamberger—Other members of the Industrial Relations Commission are.

Senator MARSHALL—Just others. So it does not apply to anybody else?

Mr Hamberger—We are talking about precedent; we are not talking about orders of the commission or awards. That is a different issue. I am not bound to follow decisions of the Industrial Relations Commission.

Senator WONG—And you would agree that on this issue you are not.

Mr Hamberger—In relation to that particular case, no, I am not. But there are lots of other commission decisions which are consistent with the approach I have taken.

Senator WONG—Yes, that have been overruled. Let us not go through that again. It does not work by numbers.

Mr Hamberger—I understand.

Senator JOHNSTON—He is not bound.

Mr Hamberger—But I am not a member of the commission, am I?

Senator MARSHALL—I do not really want to labour on the working of the clause but, because we did go into some of the detail, I just want to clarify one thing in my mind. I think some of the detail is missing and I may need more information to make this decision myself, and you might be able to help me with it. If the preferred model is picked up, the span of hours is 7 a.m. to 10 p.m., which would be ordinary working hours. For instance, if someone had a flexibility clause where their normal hours in their normal 40-hour week block finished at 8 p.m. and they were asked to work two extra hours overtime for one night up until 10 p.m., are those two hours just paid at ordinary time or at overtime? It does say to refer to a clause below which actually is not in here. The way I read this wording, it looks like ordinary hours would still be paid up to then.

Mr McIlwain—Senator, it would depend on whether the employee had volunteered and stipulated those two hours as being hours of their preference.

Senator MARSHALL—No, the point I am making is that, if in their hours they finished at 8 p.m. every day and they were asked on an ad hoc arrangement to work until 10 p.m., are the hours between 8 p.m. and 10 p.m. ordinary hours or penalty rate hours?

Mr McIlwain—They would be penalty rate hours if they fell outside the hours preferred by the employee.

Senator MARSHALL—What if they had not made up their 40 hours in that week? Would they still be deemed to be penalty rates if we took it on a day-by-day situation?

Mr McIlwain—They would still be, under our policy, directed hours outside the preference of the employee and would attract the penalty rate.

Senator MARSHALL—I did not want to go into all the detail, but I just wanted to clarify that, given you had gone into some detail.

Senator WONG—Don't quite a number of awards contain flexibility clauses in relation to the spread of hours? In my recollection—and it is some time since I have had to look in detail at awards—the standard clause enabled ordinary hours to be worked on a daily basis, a weekly basis or even a monthly basis and the spread of hours was far greater than—what was it?—6 a.m. till 6 p.m.

Mr McIlwain—In Mr Hamberger's example? From 8 a.m. until 6 p.m.

Senator WONG—Are there not flexibility clauses within awards?

Mr Hamberger—In some awards there are, but they are usually quite restrictive in the way they operate. If all you are doing is complying with the award, obviously it is not an issue. We have looked it as far as flexibility clauses are concerned, but they are usually fairly limited. They do not usually allow an individual employer or an individual employee to just vary the span of hours. That would be extremely rare. I have never seen one.

Mr McIlwain—They tend to apply the change where they are used, as we understand that, across all of the employees in the workplace or all of the employees in a unit in the

workplace. As Mr Hamberger says, they tend not to facilitate arrangements that would allow an individual to vary their hours on that basis.

Senator WONG—I want to ask about casual employment, Mr Hamberger. Was I seeing things, or did I actually see some media comment by you that you are a bit of an opponent of casualisation?

Mr Hamberger—In a way, yes. That is one way of characterising it. I think we overrely on casuals in this country.

Senator WONG—You ran a series of workshops for what you described as the business case for non-casual employment through AWAs last year. Is that right?

Mr McIlwain—Yes, that is correct.

Senator WONG—How many workshops were run?

Mr McIlwain—Off the top of my head, I am not able to say exactly how many covered the decasualisation issue, but in the first six months of the current financial year 23 workshops were run around Australia, and perhaps a third of those would have dealt with the issue of the appropriate use of casual employees in the workplace.

Senator WONG—Are you able to confirm those numbers on notice, please?

Mr McIlwain—We will take that on notice.

Senator WONG—What was the cost of the workshops?

Mr McIlwain—The cost was modest. They were run internally.

Senator WONG—Do we have any numbers?

Mr McIlwain—I will take that on notice.

Senator WONG—You do not have figures here for expenditure?

Mr McIlwain—No, we do not have figures here.

Senator WONG—What expenditure figures do you have here?

Mr Hamberger—We do have some budget figures here, but usually they are broken up by unit. We do aim to spend about 10 per cent of our total budget on specifically promoting better work and management practices. Obviously, we have a role as a regulator in ensuring that AWAs meet the minimum standards required by law. But we also have a role in promoting agreements that involve win-win benefits for employers and employees beyond the minimum standards. We aim to spend at least 10 per cent of our total budget on that. But that is a global figure.

Senator WONG—Can you get me—on notice, then, if you do not have them—the total cost of the 23 workshops and, specifically, the cost of the casual workers workshops?

Mr McIlwain—Certainly.

Senator WONG—Is it the case that advice provided at those workshops was that, under an AWA, an employer could engage a permanent employee full time or part time with no entitlement to paid annual leave or sick leave—that is, through cashing out the two leave components?

Mr McIlwain—That is an option available to parties to an AWA, so that advice may certainly have been given at that workshop.

Senator WONG—Essentially, was the message that the Employment Advocate presented in those workshops that you do not need to put people on casual employment; you can get part-time employees to whom you do not have to pay annual or sick leave just by giving them a cashing out of those entitlements?

Mr Hamberger—That is not really the message. The message is about saying that, yes, employers need flexibility and they need to be able to cope with fluctuations in demand, whether seasonally or during a week or a month. The way employers in Australia have historically dealt with that is through casual employment. What we have found, through research, talking to people and so on, is that that is not necessarily the most effective way of dealing with that from either an employer or an employee perspective. There are costs involved in employing casuals that are, if you like, hidden. You almost always have higher turnover of staff, fundamentally, and you have staff who are likely to be less committed and less loyal. By employing employees on a permanent basis, you will get lower turnover of staff, better customer service, better product knowledge and so on. That is the fundamental message—and that there are other ways of dealing with fluctuations in work demand. It is not about cashing out of benefits.

Senator WONG—Was part of the information provided that people could cash out annual leave and sick leave entitlements?

Mr Hamberger—You can, yes.

Senator WONG—But was part of the information provided to employers that they could engage people on this basis?

Mr Hamberger—That is not the central message

Senator WONG—Thank you, Mr Hamberger.

[4.56 p.m.]

CHAIR—The committee will now move to consider outcome 2, Higher productivity, higher pay workplaces.

Senator WONG—I have some general questions before I move specifically to 2.1. Has the department made any payments in the last 12 months, under programs administered in any part or in any agency of the department, to the Australian Chamber of Commerce and Industry?

Mr Lloyd—Not to my knowledge.

Senator WONG—You do not believe you have?

Mr Lloyd—No. For outcome 2, to my knowledge, there have been no payments made to ACCI. Is that your question?

Senator WONG—Yes. What about across any of the outcomes?

Dr Boxall—We will have to take that on notice, because staff responsible for outcome 1 are no longer here.

Senator WONG—If they have been made, can you provide me with the details of such payments, the name and nature of the programs, when the payments were received for the first time or when they were received in previous years and, if they were received in previous years, in which years? Are there any performance indicators attached to the funding and, if so, what are they, how often are they assessed and when will the funding be re-evaluated or be re-opened to other potential recipients? Perhaps you can take those questions on notice with respect to outcomes 1 and 2.

Dr Boxall—Indeed.

Senator WONG—Dr Boxall, I have some questions regarding your own employment practices within DEWR. Perhaps you can tell me where they should be asked.

Dr Boxall—These are called cross-portfolio questions—which were dealt with at nine o'clock.

Senator WONG—I have raised it with the minister.

Dr Boxall—Should you like to ask them now, we will see if we can answer them.

Senator WONG—What is the current position of DEWR regarding the offer of AWAs to prospective employees or to current employees?

Dr Boxall—The current position of DEWR, which has been the position for about two years, is that we offer AWAs to all employees. It is not restricted to employees at certain levels.

Senator WONG—When you say that, does that mean employment offers are conditional on an acceptance of an AWA—

Dr Boxall—No.

Senator WONG—or that an employee has a choice of either an AWA or a certified agreement?

Dr Boxall—Employees have a choice.

Senator WONG—Is that the case in respect of current and prospective employees?

Dr Boxall—It is the case for all employees.

Senator WONG—What about non-union collective agreements? Have employees at DEWR previously rejected a non-union collective agreement?

Mr Symon—Some time ago, yes.

Senator WONG—When was that?

Mr Symon—It was in 2002.

Senator WONG—The calendar year?

Mr Symon—During that year, yes.

Senator WONG—When does the current collective agreement expire?

Mr Symon—At the end of this calendar year.

Senator WONG—Is it DEWR's intention to again seek a non-union agreement?

Mr Symon—We have not made a decision about that yet.

Senator WONG—There is such a thing as a managers update, isn't there, on your intranet or newsletter?

Mr Symon—There is a managers update. It goes to administrative officers in the department.

Senator WONG—Is that from you?

Mr Symon—No, it is from the HR branch, but the HR branch reports to me.

Senator WONG—Is it the case that the managers update, I think in November, stated that all engagements should be on the basis that the job offer was conditional on accepting an AWA?

Mr Symon—The November edition did state that. That matter was raised with me by workplace representatives. That has now been corrected and the next managers update will draw attention to that correction. Currently, if managers go to the managers update, the corrected version is there. We appreciated their efforts in pointing that out to us.

Senator WONG—As I understand Dr Boxall's position—and, to give him credit, I think that has been your consistent position every time I have asked that question—did you or your staff not understand what the department's policy was?

Mr Symon—There was a misunderstanding within HR branch and, as soon as that update was drawn to my attention, it was corrected straightaway.

Senator WONG—It is a very fundamental misunderstanding, isn't it?

Mr Symon—It went to admin officers and it was corrected.

Senator WONG—It is a very fundamental misunderstanding of departmental policy, isn't it?

Mr Symon—I do not have a judgment about that, but we corrected it straightaway.

Senator WONG—If the policy is choice and you put out a managers update which says, 'A job offer is conditional. All engagements should be on the basis that the job offer is conditional on accepting an AWA,' it is clearly contrary to policy.

Mr Symon—There was an argument about 'may' and 'must'. I really do not want to split hairs. I understand the point you are making. I just repeat that, as soon as it was drawn to my attention, because I do not receive managers updates and I did not clear this one—I do not want to avoid responsibility—it was immediately corrected.

Senator WONG—These people report to you and the HR branch is responsible for implementing, presumably, all HR policy in the department.

Mr Symon—Yes.

Senator WONG—Are you able to explain how such a fundamental misunderstanding of the position of the department could have occurred?

Mr Symon—No, I am not able to explain it. I can only repeat what I said before. As soon as it was drawn to my attention it was corrected. You are right, the department's policy is the one that has been explained by the secretary.

Senator WONG—It is the case that the department runs a graduate program, isn't it?

Mr Symon—Yes.

Senator WONG—Did you approve the covering letter to offer employment to graduates?

Mr Symon—Yes, I did.

Senator WONG—When did you complete those? Was it September?

Mr Symon—I do not have the date with me, but September would be approximately right.

Senator WONG—I have a copy of a letter. Would you like me to provide it to you?

Mr Symon—I do not dispute that it was September; it may well be correct.

Senator WONG—I have read through this letter. I do not see anywhere in it—perhaps I could be wrong; if so, please refer me to it—where there is any mention of a choice between an AWA and a certified agreement.

Mr Symon—It is true that, if a graduate came to us and asked whether they could go onto the certified agreement, they can of course do that. The graduates themselves, though, have given preference for AWAs.

Senator WONG—Let us be clear: Dr Boxall's explanation of the position of the department is that people have a choice.

Mr Symon—And that is my position.

Senator WONG—Do you have a copy of this letter?

Mr Symon—Not with me.

Senator WONG—I am happy to provide you with one. I do not think it is necessarily fair that I ask you questions on a letter you do not have in front of you. Is this a letter that you prepared?

Mr Symon—This letter is signed off by a staff member in HR operations but, as General Manager Corporate, I am aware of the offer procedures for graduates.

Senator WONG—To how many people did this letter go?

Mr Symon—We have 49 graduates. We would have offered them to more than 49. I cannot give you that figure, but it would not have been greatly more than that.

Senator WONG—So 50-odd?

Mr Symon—Yes, it could have been.

Senator WONG—What proportion of that is the annual intake?

Mr Symon—This year we have taken in 49 graduates.

Senator WONG—Is that the only intake the department has?

Dr Boxall—Of graduates.

Senator WONG—Yes, but additional employees to the department is what I am asking about.

Dr Boxall—No.

Senator WONG—I am trying to work out what proportion are graduates.

Dr Boxall—Graduates are the main avenue of recruitment but, from time to time during the year, employees respond to advertisements and join the department from outside the public sector or are promoted in from elsewhere within the public sector.

Senator WONG—But the block of graduates is the majority of your intake in any one year?

Dr Boxall—I do not know whether it is the majority, but it is certainly the biggest block. All the rest are in ones or twos apart from the Indigenous contract management intake.

Senator WONG—Do they get the same letter?

Mr Symon—No. This is a graduate letter, as I understand it.

Senator WONG—This letter says:

To accept the offer for the 2004 DEWR Graduate Program, please read through each part and complete as set out below.

Part A provides an Australian Workplace Agreement (AWA) for your consideration.

Action required: that you read the material in Part A, and that by 30 September 2003 you sign and return the AWA offer, or contact your Group Manager...on...if you wish to further negotiate your AWA prior to commencement.

Mr Symon—That is correct.

Senator WONG—There is no mention anywhere of a choice of a certified agreement.

Mr Symon—This is the very start of the process. The letter, as you correctly point out, invites graduates to discuss things with their group manager if they wish. That may be to vary the AWA in some regard. For instance, we may have a graduate that has particularly good qualifications—a PhD or whatever—and we may vary the offer. Alternatively they are at complete liberty to discuss going onto the certified agreement.

Senator WONG—Where does it say that, Mr Symon, and where is that communicated to them?

Mr Symon—There is further correspondence that goes after this, which is the actual AWA offer.

Senator WONG—Can you refer me to the clause that says that you do not have to sign this, you can be on a CA?

Mr Symon—I do not have an AWA offer with me.

Senator WONG—I thought you just referred to as that basis on which you assert that they are actually informed of their choice? Is that not right?

Mr Symon—No. What I am saying is that this is the start of the process and, following on from that, there is an AWA offer made, and that is the subject of negotiation between the graduate and the department.

Senator WONG—I do not dispute that. None of that I dispute. I am saying that nothing in here indicates that people have a choice. All you are inviting them to do is either sign it or contact their manager if they want to renegotiate the AWA. There is no discussion either in this or in the AWA that is provided to them—and I am happy to give you a copy—of their having a choice. How is that consistent with the department's policy?

Mr Symon—Other information is made available to graduates, including—

Senator WONG—Can I see it?

Mr Symon—I do not have it with me, but I can provide it. Other information is provided, on the intranet and in other vehicles, that makes it plain that you have a choice in relation to this to go onto an AWA or to go onto the certified agreement.

Senator WONG—I have a copy of the intranet here. Perhaps you could refer me to the part of it that refers to the choice.

Mr Symon—I have not brought the intranet copy with me.

Senator WONG—Would you like this printout? Perhaps it might help you refer me to the part that you are saying sets out the department's policy.

Mr Symon—There is a departmental Internet and there is an intranet. There is much material on all of it. What you have provided—which I will, obviously, very happily look at—may not be the complete information that is made available to graduates. I can only repeat, as I said before, that should graduates wish to go on to the certified agreement then they are able to.

Senator WONG—How are they to know that? Everything you have pointed to does not mention it. The letter does not—the letter only refers to an AWA and the possibility of renegotiating that. There is no mention at all of the choice. In fact, people are directed, in terms of action required, to sign and return it or renegotiate the terms of the AWA. There is nothing in the AWA itself that I can find that indicates it is a choice. There is nothing on the intranet that I can see that indicates any choice. So perhaps you can explain to me how these graduates—some of whom, it must be presumed, are reasonably young—would know that the department's policy is in fact what Dr Boxall says?

Mr Symon—The graduates range in age from, as I recall, 22 through to 41—41 being the oldest graduate we have. They are people who ask questions. They are literate as far as the Internet and the intranet are concerned. At any stage, if they ask, of course they can go onto the certified agreement. I will now have to go and check all of what is on the Internet and the intranet, but I just repeat that it is departmental policy that should people want to go onto the certified agreement—and many in the department are on it—then they can do that.

Senator WONG—Why is this not communicated to them?

Mr Symon—I do not accept that it is not.

Senator WONG—If you do not, show me where it is.

Mr Symon—I have said to you that I do not have all the contents of the Internet and the intranet with me.

Senator WONG—Explain to me where, within everything you have indicated to me—the letter, the AWA and the intranet guidelines; I have provided you with copies—there is communicated to graduates this choice that is departmental policy.

Mr Symon—I will have to take it on notice and check out everything on the Internet and the intranet, but I can assure you—and I am a general manager myself—that if ever a graduate asked me if they could go onto the certified agreement then the answer absolutely would be yes.

Senator WONG—But that is not what I am putting to you. I am not suggesting that you would say no to that.

Mr Symon—No, I would not.

Senator WONG—What I am saying is that nothing in the documentation you have provided to this group—your largest block of intake—is an accurate reflection of departmental policy.

Mr Symon—What I am saying is that there is much information available in the Internet and the intranet—more than this. I said I would take that on notice. I will come back to you concerning it.

Senator WONG—Do you think it is acceptable for letters going to graduates not to comply with departmental policy?

Mr Symon—I do not have an opinion about that. We write to graduates and make an offer. It is consistent with departmental policy.

Senator WONG—Explain to me how the letter of offer that we are discussing is consistent with departmental policy.

Mr Symon—The letter of offer is not the only communication between the department and graduates before they sign on to an AWA.

Senator WONG—Is there any written communication between the department and graduates that is consistent with departmental policy on this issue?

Mr Symon—Yes, but I will take your question on notice so that I can demonstrate that to you.

Senator WONG—So you say there is?

Mr Symon—Yes, I do.

Senator WONG—And you are not concerned with the letter of offer not indicating any choice?

Mr Symon—Senator, I have said that it is not for me to give an opinion about that.

Senator WONG—You are the manager of HR. You agree that you know what the department's policy is?

Mr Symon—Yes, I do.

Senator WONG—But the letter is, I would suggest, inconsistent with departmental policy. It clearly makes no reference to a certified agreement. Does that not concern you?

Mr Symon—The letter of offer is not the only communication we have with graduates before they sign on to the department.

Senator WONG—So, if I am a graduate and I get that letter, do you think I would understand that I had a choice on what the departmental policy would be?

Mr Symon—As I said before, it is not the only communication we have with graduates. We have a lot of communication with graduates before they sign on.

Senator WONG—Mr Symon, as far as I can see, there are a few documents flying around which appear to be quite inconsistent with departmental policy as stated.

Mr Symon—The first one that you drew to my attention was the HR update, and I indicated to you that the very moment it was drawn to my attention by workplace representatives I immediately had it changed—and that is true.

Senator WONG—I accept that. I assume you are not misleading me on that.

Mr Symon—There were people at the meeting.

Senator WONG—I am just making the point that, in the exercise of your functions and those of the people who report to you, it seems quite clear in the documents that there has been a tendency for department policy not to be articulated.

Mr Symon—I understand that, Senator. The point I am making is that this is not all the documentation. This does not represent all the documentation.

Senator WONG—But you are unable to point me to anything else at this stage?

Mr Symon—I have taken that on notice and I said that I will come back to you.

Senator WONG—Given that this has been raised, do you intend to alter the text of the letter of offer to graduates to properly reflect department policy?

Mr Symon—The next set of letters that go out to graduates will be in 12 months time, and the letters will be consistent with departmental policy.

Senator WONG—Do say that the current lot are?

Mr Symon—I say that there is a lot of communication between ourselves and graduates. This is not the only communication.

Senator WONG—Do you say the letter is consistent with department policy?

Mr Symon—I cannot give an opinion on that. I cannot give an opinion.

Senator WONG—I am asking about department policy.

Mr Symon—The department policy is quite clear.

Senator WONG—I would have thought that it would be part of your job to ensure that communications to prospective employees are consistent with department policy.

Mr Symon—All communications.

Senator WONG—All communications?

Mr Symon—Yes, all communications.

Senator WONG—Are you satisfied that they are?

Mr Symon—I am satisfied that the totality of the communications that go to graduates is in line with departmental policy. It is in the department's interests, as well as the graduates' interests, that they make informed choices.

Senator WONG—Can I just clarify whether the documents that we have been discussing actually indicated a change in department policy. Is it the case that all new employees through the graduate program are required to sign an AWA?

Dr Boxall—I answered that question earlier from you, Senator Wong, when I said that the departmental policy is that people within the department and prospective employees of the department have a choice—and that answer stands. Mr Symon has just given you the department's position with respect to communications with graduates.

Senator WONG—What is the department's position with respect to communication with graduates?

Dr Boxall—It is exactly what Mr Symon said.

Senator WONG—I am really very unclear what Mr Symon is saying.

Dr Boxall—Mr Symon repeated himself several times—and I will ask him to do it again.

Mr Symon—The purpose is to ensure that graduates are making an informed choice when they come to work with us in the department. In doing that, there is a range of information. It is a big decision for the graduates and it is a big decision for us to get them into the department. There is a range of information—not just what you have provided to me—much of which is on the Internet, particularly when they are outside of the department, that makes clear the department's policy.

Senator MARSHALL—In terms of direct correspondence from you to them, are they clearly given a choice? Is a choice outlined, or is it a matter of them having to find out that there is a choice?

Mr Symon—Yes, it is made clear to them that there is a choice, and the most significant correspondence that goes to them is the actual offer of an AWA.

Senator WONG—I agree with you that it is the most significant correspondence. Where in that is a choice indicated?

Mr Symon—I do not have an actual AWA offer with me, but I have said that I will take on notice the substance of your question and come back to you.

Senator WONG—So they are sent a copy of the AWA?

Mr Symon—No, we send them an offer—they have to agree to it.

Senator WONG—It appears from the text of the letter that it is a package. They get the covering letter with the offer that says: 'Here's an AWA. Please sign it and return it or talk to us about its terms.' Is that correct?

Mr Symon—Can you repeat that, Senator?

Senator WONG—The text of the letter they are sent is titled ‘Letter to offer package’; is that right?

Mr Symon—Yes, it is the covering letter to the offer package.

Senator WONG—As I understand it, in the package they get part A, which is the AWA, then they get part B, part C and part D which relate to other aspects of employment. Is that correct?

Mr Symon—Yes.

Senator WONG—So they are sent a draft AWA, or DEWR’s offer of an AWA?

Mr Symon—There is a whole range of information. In the package are links to the Internet so that they can see all of that material. There may be 500 or so potential graduates that apply to work for the department. At points in the process there is information sent to them as well. Before they get to this point, there is a whole process that goes on and much information that goes to the graduates.

Senator WONG—Mr Symon, I refer you to page 4 of the letter of offer that I provided you with. Do you accept that part A, entitled ‘Conditions relating to an Australian workplace agreement’, is part of the package you send graduates?

Mr Symon—Are you referring to the covering letter or part A itself?

Senator WONG—Part A itself, so it is the third page.

Mr Symon—Yes, I have that in front of me.

Senator WONG—Do you agree that that is what was sent to graduates?

Mr Symon—You have given it to me and told me that that is the case—

Senator WONG—I am trying to be fair to you, Mr Symon.

Mr Symon—Yes, I accept that to be the case.

Senator WONG—It says:

The attached AWA is being offered to you as the basis of your conditions of employment as a Graduate APS.

Senator WONG—Where—

Mr Symon—What that means is that, should you sign the AWA, that would be the basis of your employment. But we do not force people to sign AWAs.

Senator WONG—Can I ask the question this time?

Mr Symon—Of course.

Senator WONG—Where in this document, in the attached AWA or in any of the parts referred to in the letter of offer—that is, in any of the package of written correspondence provided to graduates—is the department’s policy that they are entitled to a choice outlined?

Mr Symon—The reason I am finding it difficult to answer that narrow question is that it asks me to accept that that represents the totality of the communication between the potential graduate and the department. It does not represent that.

Senator WONG—Are you saying that there are other letters?

Mr Symon—There is other correspondence. There is a whole lot of correspondence. There is the whole lot of information that is made available to graduates. They do not take these decisions just on the basis of a single letter.

Senator WONG—But you would accept that there is a difference between the terms of a letter of offer and a link to an Internet site somewhere in the letter.

Mr Symon—I do not have a view about that. All I can do is repeat the fact that there is a lot of information that is communicated among graduates, from the huge bulk of graduates—it may be 500 or more—to the final group of graduates that finally sign on to the department.

Senator WONG—Are the prospective graduates sent a copy of the certified agreement?

Mr Symon—The certified agreement is on the Internet.

Senator WONG—That was not my question.

Mr Symon—It is made available; we refer the graduates to the Internet when we communicate with them.

Senator WONG—If that is your evidence, could you please provide us with copies of the correspondence in which graduates are referred to the certified agreement?

Mr Symon—I have already taken that on notice, and I will comply with it.

Senator WONG—Thank you. Has a decision been made to downsize the Employment Business Services Group?

Dr Boxall—That is an outcome 1 question, but no decision has been made to downsize outcome 1 that is inconsistent with the budget.

Senator WONG—I have some questions regarding the wage analysis survey. Can you point me towards which output that would fall under.

Dr Boxall—It is outcome 2, so we should have somebody here who can deal with that.

Senator WONG—I am happy to deal with it later. I was just not sure which particular subgroup it would fall within. I presumed it would be under Industry and Australian government employment advice.

Dr Boxall—It is output 2.1

Senator WONG—Since the passage of the bill what, if any, work has the department done to assist with the implementation of the Workplace Relations Amendment (Improved Protection for Victorian Workers) Act 2003?

Mr Hoy—Through our Office of Workplace Services we have been providing advice and assistance to employers and employees on the implementation of common rule referral.

Senator WONG—Is that since the act was passed?

Mr Hoy—Yes, although I think you know that it takes 12 months before it is in force.

Senator WONG—Can you explain to me what form of assistance and advice that takes?

Mr Hoy—Our Victorian office of the department provided facts sheets, brochures and guidance and also went out and talked to employers and employees.

Senator WONG—Can you tell me on notice how many visits they engaged in?

Mr Hoy—Yes, I will have to take that on notice.

Senator WONG—Thank you. When were the brochure and fact sheet prepared?

Mr Hoy—The brochure was prepared late last year but it was distributed after the act was passed by the parliament and proclaimed.

Senator WONG—How many copies are we talking about?

Mr Hoy—I do not know. I would need to get that advice for you.

Senator WONG—Thank you. So you will take on notice how many visits there were. What about responding to queries?

Mr Hoy—I would need to get some advice on that too. I do not know.

Senator WONG—Any other action?

Mr Hoy—No, that is it.

Senator MARSHALL—I have some questions about productivity in the building industry. How much did the Econtech report on productivity in the building industry cost?

Ms Bennett—It cost \$76,500.73 inclusive of GST.

Senator MARSHALL—On what date was the report commissioned?

Ms Bennett—The report was completed in March 2003.

Dr Boxall—It was commissioned before Christmas 2002. We do not have the exact date.

Senator MARSHALL—Can you provide a copy of the brief given to Econtech?

Ms Bennett—It was a specification that went out to tender. The tender document is available.

Senator MARSHALL—After Econtech won the tender, what was the process of discussions? There would have been a more firming up, surely, of the actual brief. What I am interested in knowing exactly is the criteria in the requesting documentation of Econtech that led them to be able to produce the report.

Ms Bennett—As was the normal process, after Econtech were selected there were briefings and discussions further clarifying the type of information that we were seeking and how the final report would be presented.

Senator MARSHALL—Was anything else discussed?

Ms Lipp—There was a quite detailed timetable in the specification, which had a number of milestones that the successful tender was required to comply with.

Senator MARSHALL—So those things would have been documented and agreed to?

Ms Lipp—Yes.

Senator MARSHALL—Are those things available to the committee?

Ms Lipp—I will take that on notice.

Senator MARSHALL—What are you taking on notice? Whether they are available or not?

Ms Lipp—Yes.

Senator MARSHALL—What is there to take on notice? I do not understand. If they exist, for what reason would they not be available to the committee? I am happy for you to say, ‘We do not have it here with us today, and I will give it to you later,’ but I am not satisfied with a response that you will take on notice whether or not you will provide it.

Ms Lipp—I am sorry, Senator. If it is available, we will provide it. I am not sure that it is available. We will have to investigate.

Senator MARSHALL—For what reason would it not be available? You have indicated to me that there is a document.

Ms Bennett—We can provide the tender documentation.

Senator MARSHALL—I understand that.

Ms Bennett—That is what you have asked for, and we can provide that.

Senator MARSHALL—But that is not what I am interested in. I outlined earlier what I am really interested in. I want to know exactly what Econtech was working to.

Dr Boxall—It is quite proper for us to take this on notice, assess your request and advise the minister. That is what we plan to do.

Senator MARSHALL—I understand that. I do not want to be pedantic about this point, but I would like to seek some clarification on the grounds that it would not be made available. There is nothing sinister in these questions. Often when these reports are done, it is hard to make an assessment on the outcomes unless you know the exact foundation basis of the request. I want to be in a position to make that assessment based on the request. I think that is quite proper.

Dr Boxall—I agree, and we note that. In tendering our advice to the minister we will take that into account. But I repeat that it is quite proper for the department to take on notice a request for this sort of information and then advise the minister accordingly.

Senator MARSHALL—I see Minister Abetz nodding and I have to take your word for that, I think, at this point in time. Why did the department feel that it needed to ask for the Econtech report, given that the government had just spent \$640 million on a royal commission into the building industry?

Ms Bennett—To better inform ourselves and the minister about a stronger economic analysis of the building and construction sector, which were not the terms of reference of the royal commission.

Senator MARSHALL—The royal commission though did undertake economic studies into that very question. Are you saying that the department feels that those studies are flawed?

Ms Bennett—It was different material. The Econtech report, which is publicly available, drew on the material that the royal commission looked at but went further.

Senator MARSHALL—I guess that demonstrates the need for my former request. When you say it drew on the same sort of material, did you believe the studies undertaken by the royal commission were in fact inadequate to answer the questions you were seeking answers to?

Ms Bennett—I did not say it drew on the same material; I said that the work conducted by the royal commission was also taken into account in the study. The Econtech work drew on a range of material and the royal commission work was one part of that.

Senator MARSHALL—Can you be a little more precise about why the studies undertaken by the royal commission did not meet your requirements or your needs?

Ms Bennett—An example I can give is that the Econtech report looked at comparisons between the housing industry and the civil construction industry whereas the work from the royal commission looked only at construction costs within its terms of reference, which was not the housing industry. There was work that was done on differentiations between the states and there was a broader economic impact such as the impact on the CPI identifying where there were potential deficiencies and how that would impact on builder budget parameters.

Senator MARSHALL—So the purpose was to make a comparison between the domestic cottage industry and the commercial building industry?

Dr Boxall—Not quite. The purpose was to look at what would be the economic impact of reform of the building and construction industry and, in so doing, the modellers looked at differences in productivity between the cottage industry or house building industry and the building and construction industry. So the purpose was to, as I understand it—and unless I am corrected—look at the economic impact, in other words the impact on gross domestic product, the impact on income per capita, the impact on the consumer price index and variables like that. It was a general equilibrium type model.

Senator MARSHALL—Was Econtech advised to make predetermined assumptions to base their report on?

Ms Bennett—We will have to take that on notice. It was Christmas two years ago.

Ms Lipp—Perhaps I can give a partial response to that. Part of the assumptions were derived based on some detailed examination of price and productivity information at a more micro-level that built up to the macro assumptions that were fed through. But we will have to take it on notice; I cannot recall all the details of those assumptions.

Senator MARSHALL—And those assumptions would be provided with the whole of the documentation. If you decide I can have that documentation I would also like to be advised if there is some of the documentation that I do not have so I know whether I have the complete picture.

Dr Boxall—Yes. Just to clarify: it is not us who decide whether you get it; it is the minister, but we advise the minister. Clearly, as Ms Lipp has indicated, assumptions that were fed into the model would have been discussed from Econtech and would draw from various information at the more micro-level.

Senator MARSHALL—The royal commission's discussion paper No. 15 found that productivity in the Australian building industry was highly productive by international standards. Why did the department choose not to accept that finding?

Ms Bennett—It was not an issue of accepting or not accepting it. We had commissioned different work—for example, one of the comparisons was made with North America—and this work came with those conclusions that you are discussing, that it was not internationally competitive.

Senator MARSHALL—So the department disputes what the royal commission findings were?

Ms Bennett—We have a piece of work that points to a different conclusion.

Senator MARSHALL—Have you determined a view on which version you support or have a preference for? Are you now saying that the Econtech study is the penultimate study?

Ms Bennett—Can I refer to our earlier conversations. The royal commission looked at different aspects, different parameters. It took into account different information. It was a narrower view about making those productivity and efficiency conclusions. We looked more broadly, we believe, in the Econtech report.

Senator MARSHALL—So you do not accept the findings of the royal commission in respect of discussion paper 15? You cannot really have it both ways and I put it to you that you have to either say you do or you do not.

Ms Bennett—Can I say it is also a very simplistic analysis of the royal commission's findings in chapter 15. It is a very large part and it segments in a whole lot of ways different areas of costs. I do not have the paper with me at the moment, but it was not a black and white statement that it was a most highly efficient industry. It was very clear that there were areas where—

Senator MARSHALL—I did not put that.

Ms Bennett—cost differentiations between states, between like and like, were quite different. As to the assumption of that discussion which says the royal commissioner found it a highly efficient industry, it is not a case of my agreeing or not agreeing because that is not what he found.

Senator MARSHALL—But effectively that is the difference between the two reports. I accept it is not so straightforward that there cannot be a debate about it, but ultimately one report says that the Australian building industry was highly productive by international standards and another one does not. There are two reports. I hear what you say about relying on different bits of information and that is subjective consideration. But, ultimately, have the department taken a formal view on which report they support?

Ms Bennett—We are not there to make a choice and say whether one is right or one is wrong. There is a piece of information that was used in the context of the royal commission, commissioned by the royal commission to fulfil its terms of reference. The department commissioned a piece of work and came up with a set of findings. We have made those findings publicly available.

Mr Lloyd—I might add to what is being said. We would regard it as a very important conclusion of the royal commission that the industry, if it changed its practices, would become much more efficient. You are referring to a discussion paper which was issued before the commission reached its final conclusions and that was very much of the thrust of its final position on productivity.

Senator MARSHALL—If we start debating the royal commission's findings we will be here for a long time so we should not go down that path today. But I did want to concentrate on those particular reports saying different things.

Ms Bennett—The Econtech report did not make a conclusion whether the Australian industry was effective or not. What it made were cost comparisons between best practice internationally and within state across state and between domestic and large construction—between cottage and large construction—and said that there were economic benefits from reforming and making adjustments, that there would be broad economic benefits for the whole community if improvements could be found.

Senator MARSHALL—And based on different assumptions. Are you aware that in 2002 the Productivity Commission found that the building and construction industry was exceeding OECD standards? Do you accept that report?

Ms Bennett—Yes, I am aware. These are different reports with different terms of reference drawing on different data for different purposes, and so it is not about accepting one or not accepting the other.

Dr Boxall—Logically, any industry could be better than OECD average but still be well below international best practice. The issue is what is international best practice and whether it is possible to be more efficient by reforming a certain industry—in this case, the building industry. The Econtech report has demonstrated that, in the case of the building and construction industry, if it were more efficient along certain lines, there are big benefits for the Australian economy as a whole.

Senator MARSHALL—Yes, and that is if we accept the underlying assumptions and the methodology and they are generally accepted.

Dr Boxall—Indeed.

Senator MARSHALL—And again we ought not go down the path of debating all these issues in detail. However, there are conflicting reports. That is why I think it is important that the underlying assumptions, the specific brief—that documentation, the detail of that—is actually provided to the committee so we can look at that report in its entire context.

Senator WONG—I think I asked some questions last time about the International Labour Organisation. How much does it cost to send the government's delegation to the ILO for this current financial year?

Mr Lloyd—I do not have that figure available.

Senator WONG—You do not have the current budget allocation for that component, that program?

Mr Lloyd—No. I think you asked what was the cost of the representation at the last international labour conference. Is that right?

Senator WONG—I would like to know what the total cost for the financial year is of the government delegation.

Mr Hoy—I will need to add these up for you, but the cost of the delegation to the ILO governing body in May-June was \$111,340.33. That comprised government employer and employee representatives. There was a departmental officer who went to the governing body in March, and that was a cost of \$4,442.85. In November 2002 an officer went to the ILO governing body at a cost of \$7,016.23. I think that probably covers those questions.

Senator WONG—The figures you have read out would be the total cost for the financial year to date. Is that right?

Mr Hoy—Financial year to date on those particular visits, yes.

Senator WONG—Are you able—and you will probably need to take this on notice—to calculate the cost of the actual Australian government delegation as opposed to employer and employee? Are there not government delegates as well?

Mr Hoy—There were four government delegates, yes. Yes, we have those figures; I do not think I have them with me though.

Senator WONG—If you could provide them for the current financial year, on notice, Mr Hoy, I would appreciate it.

Mr Hoy—Yes. I would need to give you those figures broken up.

Senator WONG—I think we might have discussed this previously: it is the case, isn't it, that the government's delegates to the ILO voted against the list of occupational diseases recommendation in 2002? Is that right?

Mr Hoy—Yes, the government delegates did vote against that particular one.

Senator WONG—Presumably DEWR was involved in providing advice to government on that issue?

Mr Hoy—Yes, that is correct.

Senator WONG—Subsequently, did we change our position on this—'we' meaning the Australian government?

Mr Hoy—That is a hypothetical question, because the issue has not come up again.

Senator WONG—You provide written recommendations. I presume these are to delegates, are they not?

Mr Hoy—Sorry, I do not understand the question.

Senator WONG—Do you provide written recommendations to delegates?

Mr Hoy—We provide advice to the minister. We do not provide written recommendations to delegates.

Senator WONG—But we do as an ILO member report to the ILO an action proposed, do we not?

Mr Hoy—Yes, that is correct.

Senator WONG—Is it the case that our submission in respect of this instrument has altered?

Mr Hoy—I am not aware of that.

Senator WONG—Who prepares them?

Mr Hoy—My advice is that it was tabled in the parliament recently and it was not altered, so I am not sure what you are saying.

Senator WONG—Are you saying that what was tabled in the parliament was consistent with our previous position on this?

Mr Hoy—My advice is that what was tabled is consistent with the position taken by the government delegates, yes.

Senator WONG—I presume the documents I have been provided with are the tabled documents?

Mr Hoy—I assume they are, yes.

Senator WONG—‘The government’s initial understanding was that the proposed recommendation presented difficulties for Australia due to its prescriptive nature; consequently the government delegates at the conference were instructed to vote against it.’ Is that correct?

Mr Hoy—That is correct.

Senator WONG—Is it now the case that our submission to the ILO, which was also tabled in the parliament, says that ‘there are no implementation difficulties with this recommendation’?

Mr Hoy—That is correct.

Senator WONG—So we have changed our position?

Mr Hoy—No, we did not change our position.

Senator WONG—We did not change our position?

Mr Hoy—No.

Senator WONG—We voted against it and now we are saying there are no difficulties; that is not a change?

Mr Hoy—No, it is not, in the light of the fact that it was not a binding resolution anyway; it was just a recommendation.

Senator WONG—I do not think that is the issue. I did not ask whether or not it was effective; I asked whether or not we have changed our position. It seems pretty clear to me that we have.

Mr Hoy—The government did not change its position.

Senator WONG—Can you explain to me how these tabled documents indicated that we voted against it and now we are saying that there are no implementation difficulties?

Mr Hoy—The government has examined it and formed the view that, as you say, there are no implementation difficulties.

Senator WONG—After we voted against it?

Mr Hoy—At the time, yes, the delegates were instructed to vote against it.

Senator WONG—I am sorry, Mr Hoy; perhaps I do not understand you. I am not asking you to explain why. Isn't it the case that that is a different position?

Mr Hoy—No.

Senator WONG—How is it consistent?

Senator Abetz—You can extrapolate that and make a point out of it. Whether or not an official agrees that it is or is not a change, he has indicated to you the facts as to the vote and confirmed what the statement—I think it was—that was tabled in the parliament said. Above and beyond that, it is up to you, Senator Wong, to make whatever political points you want to make out of that, but I am not sure it is necessarily up to the official at the table to indicate whether that is a change of view or policy, whether it is a 50 per cent change or a marginal change. It is on the record; it is for you to make your determination.

Senator WONG—I understand that, Minister. I am actually responding to Mr Hoy's assertion that they are consistent. I am genuinely confused as to how the two propositions are consistent, and I was actually just seeking some indication from him as to why he made that comment.

Mr Hoy—I was saying that the government had not changed its position.

Senator WONG—Is it the case that, after voting against it, there was a tripartite committee of experts which reviewed and updated the list of occupational diseases and considered the implications of signing off on the recommendation?

Mr Hoy—My advice is that we are not aware of whether or not the committee of experts has done that.

Senator WONG—How much investigation of this issue occurred prior to the government instructing its delegates to vote against this recommendation? Was there any analysis?

Mr Hoy—There was analysis and there was advice provided to government.

Senator WONG—When was that advice provided to government?

Mr Hoy—Just before the government delegates voted.

Senator WONG—Voted against?

Mr Hoy—Yes.

Senator WONG—When was the next batch of advice on this issue provided to government?

Mr Hoy—My advice is that we provided advice to the government as part of the tabling documentation which you referred to, which would have been some time late last year.

Senator WONG—So Australia voted against—when was it?

Mr Hoy—I think it was in—

Senator WONG—It was in 2002 some time.

Mr Hoy—I think it was June 2002.

Senator WONG—So we voted against in June 2002 after you had given advice, and you gave further advice—

Mr Hoy—As part of the tabling process.

Senator WONG—What additional work had you done in between—because there is a change in position? We voted against and now we are saying that there is no problem.

Mr Hoy—When you say ‘we’—

Senator WONG—Sorry—the Australian government voted against it.

Mr Hoy—The Australian government directed the delegates to vote against it.

Senator WONG—And now the recommendation is that there is no problem with the recommendation?

Mr Hoy—That is the government’s view.

Senator WONG—Minister, perhaps I am missing something here. Maybe you can explain why, if the government voted against it previously and now is asserting there is no problem with complying with the recommendation, that is not a change in position.

Senator Abetz—I am sure that is what Mark Latham will be saying when he finally supports the free trade agreement.

Senator WONG—Dr Boxall, I asked some questions of OEA today on work and family issues. Can you just clarify for me whether it is 2.1 which deals with work and family issues in the department?

Dr Boxall—Yes, 2.1.

Senator WONG—What work since the interdepartmental task force finished its work has DEWR performed in relation to work and family issues?

Mr Hoy—The department, through my group, undertakes research on this and other matters as part of its role in providing policy advice to government.

Senator WONG—Can you point me to any specific work in recent months?

Mr Hoy—It is continuing work.

Senator WONG—Highlights?

Mr Hoy—What do you mean by ‘highlights’?

Senator WONG—I am trying to get a feel for what you do. Have you conducted any surveys?

Mr Hoy—No, the department has not commissioned any surveys on that particular matter. We do analyse, through the agreement making process, the uptake of what I broadly call ‘family friendly policies’ through enterprise agreements—maternity leave, part-time work, casual work and that sort of thing. The other work we are currently doing as part of the two-yearly report on agreement making, which is required under the Workplace Relations Act, is

the impact of bargaining in this particular area. That report is due to be presented to government by 30 June this year, and it will cover 2002-03.

Senator WONG—Will that look at the spread of paid maternity leave?

Mr Hoy—Amongst other things it will cover that, yes.

Senator WONG—Who represented DEWR on the task force?

Mr Hoy—Who represented the department?

Senator WONG—Yes.

Mr Hoy—There were officials from outcome 1 and outcome 2.

Senator WONG—Who from outcome 2?

Mr Hoy—I participated in the task force from 2000 to the start of 2003. Before that, other officers were involved.

Senator WONG—And at the start of 2003?

Mr Hoy—The task force itself, as the Department of the Prime Minister and Cabinet advised, started in late 2002.

Senator WONG—Is it still operative?

Mr Hoy—You would need to take that up with the Department of the Prime Minister and Cabinet?

Senator WONG—Have you attended any meetings recently, Mr Hoy?

Mr Hoy—Not since late 2003.

Senator WONG—Apart from yourself, who else from outcome 2 was on the task force?

Mr Hoy—I was the only representative from outcome 2.

Senator WONG—Who was the representative from outcome 1?

Mr Hoy—Mr Graham Carters.

Senator WONG—Anyone else?

Mr Hoy—He was the representative; others may have attended.

Senator WONG—What were the particular roles and responsibilities of DEWR in that task force?

Mr Hoy—To advise and assist the task force in looking at workplace relations aspects of what the task force was examining.

Senator WONG—Did you have considerable involvement in the IR and employment proposals in the task force report?

Mr Hoy—Yes.

Senator WONG—Did you undertake any specific research in relation to the task force?

Mr Hoy—As I was saying earlier, it was just part of the normal research we do.

Senator WONG—What sort of research was provided to the task force?

Mr Hoy—The analysis that we had done about the uptake of work and family provisions in agreements and that sort of thing.

Senator WONG—Was specific research or survey work performed?

Mr Hoy—As I said earlier, we did not commission or undertake any additional survey work. It was part of our ongoing work as part of developing advice to government.

Senator WONG—Is it the case that the provision in relation to part-time work on return from parental leave has been removed from most federal awards through the award simplification process?

Ms Sadauskas—Not that I am aware of. Have you a specific case in mind?

Senator WONG—The document that we have been provided says that ‘a previous provision for part-time work in connection with parental leave up to the child’s second birthday, by agreement with the employer, has been removed from most federal awards through the award simplification process’. Is that not correct?

Ms Sadauskas—I would need to take that on notice. I will say one thing, though: there used to be a model clause on that work, but part-time work was included in every award, except for the building award, as part of the award simplification process. My understanding is that it therefore made that model clause redundant. But I would like to take that question on notice.

Senator WONG—You are probably much more expert than I in these areas, but my recollection is that the provision that has been talked about was a model clause in relation to parental leave which canvassed the possibility of part-time work on return from parental leave. That is different from putting in a general clause as to what provision should regulate part-time work.

Ms Sadauskas—I would need to take advice on that. I will take that on notice.

Senator WONG—Shall I clarify the question?

Ms Sadauskas—Yes, please.

Senator WONG—I would like to know whether you have statistics as to how many federal awards, through the award simplification process, have had the provision for part-time work in connection with parental leave removed. Is that clear?

Ms Sadauskas—Yes.

Mr Hoy—I was just checking with my colleague, who was involved in that award simplification process. The advice is that the commission actually changed that model clause as part of the award simplification process.

Senator WONG—So you disagree with what appears to be the document provided to cabinet?

Mr Hoy—I do not agree or disagree.

Senator WONG—Mr Hoy, you were the DEWR representative on the task force.

Mr Hoy—I was one of the DEWR representatives.

Senator WONG—But in relation to outcome 2.

Mr Hoy—Correct.

Senator WONG—Surely you have some knowledge of what the current state of awards is after the awards simplification process, particularly in relation to parental leave.

Mr Hoy—I have knowledge of that but I do not have it handy.

Senator WONG—Are you suggesting that what is in the cabinet document is inaccurate?

Mr Hoy—No, I am not saying that.

Senator WONG—Has any work been done in the last 14 months to address the issue of part-time work on return from parental leave?

Mr Hoy—I am advised no specific work has been done on that.

Senator WONG—Has there been any work done in relation to a right to request part-time work?

Ms Sadauskas—In our area we do look at Australian practice and international practice and have looked at those sorts of issues by way of general research.

Senator WONG—By way of general research?

Ms Sadauskas—Yes.

Senator WONG—But there are no specific policy proposals on the table.

Ms Sadauskas—I cannot comment on government policy proposals.

Senator WONG—Good catch, Dr Boxall! What would the impact of having no right of request be on parents returning from parental leave?

Ms Sadauskas—I cannot comment on that.

Senator WONG—Have you undertaken any research on the impact on parents of not having a right of request for part-time work.

Ms Sadauskas—No.

Senator WONG—You have not been directed to provide or received requests for any advice on that issue?

Ms Sadauskas—Not that I am aware of.

Senator WONG—Mr Hoy?

Mr Hoy—I could not comment on what we have been directed or asked to do by government.

Senator WONG—I can ask you when advice was provided. Have you provided advice on the issue of right of request; if so, when?

Mr Hoy—To government?

Senator WONG—Yes.

Mr Hoy—No.

Senator WONG—Have you considered the ACTU test case on this issue?

Mr Hoy—Yes.

Senator WONG—Have you provided advice on that?

Mr Hoy—The government is currently considering its position on the case.

Senator WONG—I appreciate that. Have you provided advice to government?

Mr Hoy—On the case itself?

Senator WONG—Yes.

Mr Hoy—Yes.

Senator WONG—When did you provide that?

Mr Hoy—Sometime late last year. I cannot be specific on that.

Senator WONG—Are you able to take it on notice?

Mr Hoy—Yes.

Senator WONG—Has DEWR commissioned or conducted any research on the effect of casual employment on parents accessing family friendly provisions?

Mr Hoy—No.

Senator WONG—What was the source of the advice the task force was relying on when it referred to the impact of casualisation?

Ms Sadauskas—I understand a study was undertaken by PM&C. They are the coordinators of the task force.

Senator WONG—Did DEWR have any involvement in organising that study?

Ms Sadauskas—DEWR had an involvement by way of policy advice on workplace relations issues.

Senator WONG—Did you have a role in preparing the questions for the study?

Ms Sadauskas—I would need to take that on notice.

Senator WONG—When was the study performed?

Ms Sadauskas—I would need to take that on notice.

Dr Boxall—No, we do not need to take that on notice, because this is a PM&C task force. According to Ms Sadauskas, PM&C commissioned the study.

Senator WONG—Were you provided with the study, Ms Sadauskas?

Ms Sadauskas—I was not.

Senator WONG—Was DEWR provided with the study?

Mr Hoy—I do not know.

Senator WONG—You do not know?

Mr Hoy—No.

Senator WONG—Were you asked to give advice in relation to what the study demonstrated or in relation to any aspect of the study?

Ms Sadauskas—As I mentioned, we did give advice on workplace relations aspects of the study.

Senator WONG—Of the study?

Ms Sadauskas—Yes.

Senator WONG—When was that advice given?

Ms Sadauskas—I would need to take that on notice. I do not know the date.

Senator WONG—Are you able to approximate?

Ms Sadauskas—It was some time last year.

Senator WONG—Early? Mid?

Ms Sadauskas—Or the year before.

Mr Hoy—it was some time in 2002.

Senator WONG—So it was quite some time ago?

Mr Hoy—Yes.

Senator WONG—Have you undertaken any research on the proportion of women who have access to paid maternity leave—working women, obviously? I should say women in paid work who have access to paid maternity leave.

Ms Sadauskas—Yes.

Senator WONG—When did you do that work?

Ms Sadauskas—Mr Hoy mentioned that we have a report on agreement making that we are required to do under the Workplace Relations Act. It would have been by way of preparation of that report.

Senator WONG—Apart from the work performed in prepared of that report, have you previously been requested to provide advice on that issue?

Mr Hoy—To whom?

Senator WONG—To government.

Mr Hoy—It was just that you were talking about the task force, so I thought I needed to clarify to whom.

Senator WONG—Or to the task force—we can start with that.

Ms Sadauskas—Not that I am aware of.

Senator WONG—Are you aware of the basis of the advice regarding the fact, which I think is fairly well known, that most working women in low-paid and casual jobs in key industries where women's employment is concentrated do not have access to paid maternity leave, and obviously casuals do not have access to unpaid parental leave? Are you aware as to the basis of that advice if it did not come from DEWR?

Mr Hoy—I take it you are referring to some document.

Senator WONG—Yes.

Mr Hoy—Can you please tell me what it is so we can understand what you are referring to?

Senator WONG—It is entitled ‘cabinet-in-confidence’.

Mr Hoy—Is this the document dated 2002?

Senator WONG—Yes.

Mr Hoy—I cannot comment on that.

Senator WONG—Have you conducted any policy work into what the impact of lack of leave entitlements is on women who are employed as casuals? That is not very well phrased, I am sorry. Have you been asked to look at what women who are employed as casuals do if they become pregnant and have to leave?

Mr Hoy—No.

Senator WONG—Have you been asked to look at the separation rates of those workers vis-a-vis people who have permanent employment?

Mr Hoy—No.

Senator WONG—Would you agree the lack of leave entitlements will often force them to resign?

Mr Hoy—No, I cannot give you an opinion on that.

Senator WONG—Have you conducted any research or policy analysis of the mechanisms that would assist people in casual employment to return to the work force after taking absence for maternity reasons?

Ms Sadauskas—No.

Senator WONG—You have not conducted any work in that area looking at how women who are employed as casuals might return to the work force?

Mr Hoy—The answer is no.

Senator WONG—Have you conducted any analyses or research into conversion to permanent part-time employment and the effects that might have on family friendly leave policies?

Mr Hoy—I think the answer is no.

Senator WONG—You have not been asked to provide any advice on conversion from casual to permanent part time and the effect on people’s leave entitlements as a result?

Ms Sadauskas—No.

Senator WONG—Can you point me to what government policies are intended to assist casual employees balance their work and family responsibilities?

Ms Sadauskas—Casual employees, like all employees, have provisions in awards and agreements that go to assisting them with their work and family balance.

Senator WONG—What if they fall pregnant?

Ms Sadauskas—There are some agreements that may cover that issue.

Senator WONG—Return to work for casuals after a period of absence?

Ms Sadauskas—There are some awards whereby long-term casuals can convert to full-time employees.

Senator WONG—And that conversion essentially assists them to return to work, because they then obtain leave entitlements. I am discussing this in the context of maternity leave.

Ms Sadauskas—An employee who is a casual could strike an agreement with their employer—an informal one or an AWA—that might provide them with some form of maternity benefit.

Senator WONG—I was interested in what you said before that there are some awards which would enable people to convert to permanent part time.

Ms Sadauskas—Yes.

Senator WONG—And that conversion enables them to obtain access to maternity leave.

Ms Sadauskas—If they were to accept that conversion, yes.

Senator WONG—How are casual employees supposed to gain access to maternity leave?

Ms Sadauskas—Maybe I am misunderstanding the question. Are you suggesting that casuals do not have any capacity to get maternity leave?

Senator WONG—And to return to work afterwards. If an award provides for an election to convert to permanent part time, isn't it the case that that would give the woman in the situation access to maternity leave and a return to work under the award?

Ms Sadauskas—That is correct, but there are various provisions in awards that require people to work certain amounts of time.

Senator WONG—Entitling requirements, I suppose you would call them. Are there any comparable provisions for casual employees who do not convert?

Ms Sadauskas—Are you suggesting in awards?

Senator WONG—We will start with awards.

Ms Sadauskas—Not that I am aware of, no.

Senator WONG—What other way is there for a woman employed as a casual to have access to maternity leave and a right of return to work?

Ms Sadauskas—It would depend on the agreement covering the workplace or what sort of agreement they have with their employer about their employment.

Senator WONG—Wouldn't a right to elect convert to permanent part-time or full-time work assist casual employees with obtaining family friendly leave?

Ms Sadauskas—I am not able to comment on that. Casual employees have all sorts of preferences about their work.

Senator WONG—Have you been asked to provide any advice to government on the issue of paid maternity leave?

Mr Hoy—Yes.

Senator WONG—When was that advice last provided?

Ms Sadauskas—Are you talking in months, days, years? We provide advice to government on a range of issues relating to pay and conditions. That is one of them. I would suggest perhaps late last year might have been—

Senator WONG—Did you provide advice in relation to paid maternity leave to the task force?

Mr Hoy—Yes.

Senator WONG—Did the information provided by you to the task force include the current coverage of paid maternity leave?

Ms Sadauskas—Yes, it did.

Senator WONG—Did it include analysis of universal coverage options?

Ms Sadauskas—I cannot discuss the policy advice we might have given government in that area.

Senator WONG—It is not to government; it is to other officers, Dr Boxall.

Dr Boxall—It is still the position that we cannot discuss what options we may or may not have provided to them.

Senator WONG—To government—not to departmental officers.

Dr Boxall—We are not in a position to indicate what options we may or may not have put to the task force.

Senator WONG—You have done some analysis on the current coverage of paid maternity leave.

Ms Sadauskas—Yes.

Senator WONG—Is it correct to say that it is rather patchy?

Ms Sadauskas—Off the top of my head—I am sorry that I do not have the facts before me, though I may be able to get them for you if you would like them more precisely—about 30 per cent of workplaces offer paid maternity leave.

Senator WONG—Is it the case that proportionally more women in higher earning jobs have access to paid maternity leave than those in low-paid jobs?

Ms Sadauskas—That is correct.

Senator WONG—And, similarly, permanent employees are more likely to have maternity leave than casual employees?

Ms Sadauskas—That is correct.

Senator WONG—So it is correct, is it not, that the main beneficiaries of a universal scheme would be the low-paid and casual employees?

Ms Sadauskas—I cannot comment on that.

Senator WONG—When did the task force finish—sorry, I cannot ask that—Dr Boxall will jump up and down.

Mr Hoy—It is a matter for PM&C.

Senator WONG—Yes. Mr Hoy, you said you have not attended a meeting since—

Mr Hoy—Not since late last year—August or September, I think.

Senator WONG—2003?

Mr Hoy—That is correct.

Senator WONG—Have you costed a paid maternity leave scheme or various schemes?

Mr Hoy—The government has had prepared costings.

Senator WONG—Did you have input into those costings?

Mr Hoy—The department did, yes.

Senator WONG—When were those costings provided to government?

Mr Hoy—The Department of Finance and Administration provided that advice to Senator Minchin.

Senator WONG—When were you consulted on those costings?

Mr Hoy—It was an ongoing process. I cannot give you the date.

Senator WONG—Can you give me a ballpark figure as to how long this long process took?

Mr Hoy—No, I cannot.

Senator WONG—Are we talking about last year?

Mr Hoy—Yes, it was 2003.

Senator WONG—And I presume before December 2003?

Mr Hoy—Yes. Senator Minchin actually put out a press release on the costings.

Senator WONG—Yes, ‘middle class welfare’.

Mr Hoy—I cannot remember the date, but the advice was prior to that.

Senator WONG—So the research and costings prepared in this regard were not within your department but within the department of finance. Is that right?

Mr Hoy—It was across departments.

Senator WONG—Are you able to provide us with copies of the costings?

Mr Hoy—No.

Senator WONG—Has any research been commissioned or performed by DEWR regarding workplace issues which constrain choice around return to work?

Mr Hoy—No.

Senator WONG—Similarly, has there been any research commissioned or performed by DEWR in relation to workplace issues which constrain choices around access to family friendly working conditions?

Mr Hoy—No.

Proceedings suspended from 6.27 p.m. to 7.31 p.m.

CHAIR—The committee is considering outcome 2, Higher productivity, higher paid workplaces.

Dr Boxall—Mr Hoy would like to update an answer that he gave to Senator Wong earlier.

Mr Hoy—Before dinner, Senator Wong was asking about the cost of ILO delegations in 2002-03. The information I provided will need to be updated and I will do that on notice, as well as provide the breakdown of the delegation to the last conference.

Senator MARSHALL—I have a question in relation to protection and promotion of workers' rights, which is a requirement of the US Congress when negotiating free trade agreements. As I understand, there is a protection and promotion of workers' rights clause in the proposed free trade agreement. Did the department give advice to the trade negotiating team on how our labour laws and standards might meet the conditions set down by the US Congress.

Mr Hoy—The department provided advice that the Australian labour laws were consistent with the ILO conventions.

Senator MARSHALL—Is it your intention to seek confirmation from the ILO that that is in fact the case?

Mr Hoy—Every two years, the Australian government provides a report to the ILO on Australia's observance of the conventions it ratifies and that would be the time at which it would do that.

Senator MARSHALL—Have the ILO expressed any concerns up until this date with our labour laws and standards?

Mr Hoy—The ILO has made some observations about some of Australia's laws. It has not made any findings. Discussions are continuing between the government and the ILO on these matters.

Senator MARSHALL—Would those outstanding issues need to be resolved before the free trade agreement could be put in place?

Mr Hoy—No.

Senator MARSHALL—Why is that?

Mr Hoy—The only enforceable provisions in the proposed free trade agreement between Australia and the United States of America relate to Australia and the US not failing to enforce their laws in a manner which might impact on trade between the two countries.

Senator MARSHALL—Have you seen the final text of the labour clause?

Mr Hoy—I have seen the all but final text of that chapter because it is still subject to final drafting and checking.

Senator MARSHALL—How often was the department consulted throughout the negotiating process?

Mr Hoy—The Department of Foreign Affairs and Trade led the negotiations on the overall free trade agreement. Our department participated in the negotiations on the labour chapter.

Senator MARSHALL—The Office of the United States Trade Representative put out an explanatory document summarising the proposed free trade agreement. One of the clauses under the heading ‘Protection and promotion of workers’ rights’ says:

Both parties reaffirm their obligations as members of the International Labor Organization (ILO), and shall strive to ensure that their domestic laws provide for labor standards consistent with internationally recognized labor principles. Agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment between the parties.

I take it from the previous answer that you are saying that ILO conventions only need to be complied with when they deal with direct trade between the US and Australia.

Mr Hoy—I was saying that, in terms of the enforceable provisions of the proposed free trade agreement, yes. In terms of general observance of ILO conventions, the government is of the view that its laws do comply with its ILO obligations.

Senator MARSHALL—Are you aware that the press has reported that senior members of the Democratic Party have stated that Australia’s laws do not comply with ILO conventions nor meet the requirements of the US Congress?

Mr Hoy—Are you talking about the Democratic Party in the United States?

Senator MARSHALL—Yes.

Mr Hoy—I am not aware of that particular point.

Senator MARSHALL—If there is some question in the United States over whether our laws do or do not comply with ILO standards, would the department then seek to ask the ILO to clarify that position for me?

Mr Hoy—As I said earlier, the government is of the view that its laws do comply with its ILO obligations. As I understand it, as part of the free trade agreement process, in the United States the US Department of Labor prepares a report to the US Congress. It is in the process of doing that. We have provided some advice to the US Department of Labor along the lines that Australia does comply with its ILO obligations.

Senator MARSHALL—Are you aware whether they have accepted that advice?

Mr Hoy—I have not yet seen any report from the US Department of Labor.

Senator MARSHALL—Are you expecting to be consulted about that matter?

Mr Hoy—I hope that they show us a draft of it before it is finalised.

Senator MARSHALL—Will that information be available to the committee?

Mr Hoy—Which committee?

Senator MARSHALL—This committee.

Mr Hoy—The letter that was written to the US Department of Labor was also copied to the relevant union in the US, the AFL-CIO. That is a public document, so it could be provided to the committee.

Senator MARSHALL—No, I am talking about their response.

Mr Hoy—The US Department of Labor's report will be to the US Congress. Whether that is a public document, I do not know.

Senator MARSHALL—I was actually talking about if there were to be a step in between there, if they were to write back giving you a view on whether they have accepted you advice.

Mr Hoy—I am not sure whether they will actually write back to us and do that.

Senator MARSHALL—No, but I have asked that. If they do, will that correspondence be available to the committee? Will that be a public document here?

Mr Hoy—I do not know. We will have to wait to see what the status of the document is.

Senator WONG—Before Mr Hoy leaves, there was one issue regarding the wage analysis survey—the one set of questions. Is that with you?

Mr Hoy—Yes.

Senator WONG—Is it the case that a wage analysis survey for the quarter ending October 2003 was conducted by the department?

Mr Hoy—The analysis was not conducted by the department. The department did engage Sensis Pty Ltd, formerly known as Yellow Pages, to conduct a survey.

Senator WONG—What was the cost?

Mr Hoy—The cost was \$55,000.

Senator WONG—When did that—

Mr Hoy—September 2003.

Senator WONG—It went to tender?

Mr Hoy—No. We bought some space for some questions in a Sensis quarterly survey.

Senator WONG—I understand from the web site that the survey was initially piloted on seven businesses in New South Wales recommended by ACCI.

Mr Hoy—Which web site are you talking about?

Senator WONG—It may not be a web site, in fact. Is it the case that the survey was initially piloted on seven businesses in New South Wales recommended by ACCI?

Mr Hoy—As part of these studies, we engaged Turning Point Research, who devised the survey questions and, as part of that process, piloted the questions with a number of firms. As I understand, they may have contacted ACCI to obtain the names of the firms.

Senator WONG—I was quoting from Statistical Clearing House, www.sch.abs.gov.au. On that web site, it does state that the seven businesses in New South Wales were recommended by ACCI, and that was the piloting of the survey?

Mr Hoy—Yes, but that was done by the consultant Turning Point Research.

Senator WONG—So that was not a direction from the department?

Mr Hoy—No.

Senator WONG—The cost of the survey was \$55,000. You requested the work be performed in September. Is that right?

Mr Hoy—We let the contract with Sensis in September. The questions were included in its October quarterly survey.

Senator WONG—So the \$55,000 was essentially for buying question space.

Mr Hoy—Question space in the survey.

Senator WONG—Sensis employees conducted the survey in terms of asking the questions?

Mr Hoy—Yes.

Senator WONG—Were any contractors involved with preparing the questions?

Mr Hoy—Yes, Turning Point Research. They devised the survey questions.

Senator WONG—What was the cost of their brief?

Mr Hoy—That consultancy is still under way. The contract price is \$84,755, but the report has not been completed.

Senator WONG—Are there any other costs apart from these two costs associated with this survey?

Mr Hoy—No.

Senator WONG—Did the contract that Turning Point Research obtained go to tender?

Mr Hoy—No, it did not go to tender. That firm was selected through the normal procurement arrangements on the basis of their particular expertise in undertaking this work.

Senator WONG—What does ‘normal procurement process’ mean?

Mr Hoy—The department formed a judgment that this firm had the skills and ability to do it, on the basis that we had used them previously in a similar exercise.

Senator WONG—You did not check what other people might cost? You did not ask any other firms for—

Mr Hoy—Not for that particular aspect, no.

Senator WONG—What about Sensis?

Mr Hoy—No. As I said, there were very few firms undertaking this sort of survey at the particular time. Because they were undertaking one in October, we took the opportunity to buy the question space in that survey.

Senator WONG—You did not explore the cost of that being provided by any other provider?

Mr Hoy—No, because there was a timing issue.

Senator WONG—What was so urgent about it?

Mr Hoy—We were attempting to do some analysis which we could use to provide advice to the government in the government forming its view as part of the current wage case.

Senator WONG—The web site states that the survey was conducted because information was required to inform the Australian Industrial Relations Commission of the employment impact of its decision to increase the rates of pay for employees remaining on awards. Will the results of the survey be submitted to the commission as part of the government's submission on the minimum wage case?

Mr Hoy—That is a matter for government.

Senator WONG—Will you make the results of the survey publicly available?

Mr Hoy—That is a matter for the government.

Senator WONG—Has the survey been completed?

Mr Hoy—The collection of data has been completed. The analysis by Turning Point Research has not been completed.

Senator WONG—Is the sole purpose of this data for input into the government's living wage case?

Mr Hoy—No, the purpose of this research is to help provide advice to government on wages and workplace relations matters.

Senator WONG—Were survey respondents advised as to whether or not information would be made public?

Mr Hoy—I am advised the answer is no.

Senator WONG—Have you performed any initial analysis of the survey results?

Mr Hoy—As I said, we hired Turning Point Research to provide that analysis. That is what is currently being undertaken.

Senator WONG—Who are the principals of Turning Point Research?

Mr Hoy—Dr Don Harding is one of the persons involved. I do not know who the others are.

Senator WONG—Could you provide them on notice?

Mr Hoy—Yes.

Senator WONG—On that web site, the following statement is made:

... as expected, many businesses would report little direct effect of the safety net wage increase on their employment.

Can you explain what 'as expected' means?

Mr Hoy—That statement was included by the consultant, Dr Harding.

Senator WONG—It seems inconsistent with government claims that increases in minimum wages costs jobs.

Mr Hoy—I cannot comment on that.

Senator WONG—Just remind me. You say the purpose of the survey was to enable you to provide advice to government on the minimum wage case and other matters?

Mr Hoy—Yes.

Senator WONG—It says on the web site that the information is required to inform the AIRC regarding the employment impact.

Mr Hoy—That may be one of the purposes to which the results might be used by government.

Senator WONG—That is what the public are being told.

Mr Hoy—Through that web site, I agree.

Senator WONG—Were the respondents advised that that was the purpose for which their responses were being collated?

Mr Hoy—I am advised no.

Senator WONG—What were they advised as to the reason for the survey?

Ms Sadauskas—The reason we chose Yellow Pages was that it is a business survey instrument. One of the reasons that we used it was that it does not explain the context of the questions. So there was no advice to the respondents as to what the questions were going to be used for.

Senator WONG—Can you explain to me why the web site states incorrectly the purpose for which the information is to be used?

Ms Sadauskas—The wording is perhaps not particularly precise. The survey is used to inform us for the annual safety net reviews that go before the Industrial Relations Commission, which we make submissions to every year. That does not mean that we were going to put the survey into that; it was to inform us in making our submissions to that case.

Senator WONG—You would accept, though, that it does not say the information is to ‘inform the government’ or ‘provide data to the government to inform its submission’; it says it is to ‘inform the AIRC’.

Mr Hoy—But the submission to the case is by the Commonwealth.

Senator WONG—I appreciate that but, if the public read this web site, their understanding as to what this money has been spent on would be that it was for the information to be provided to the commission.

Mr Hoy—That information is on an ABS web site, not the department’s web site.

Senator WONG—As I recall, ABS is part of government.

Mr Hoy—It is not involved, though, in informing or providing advice to government on these matters.

Senator WONG—Did someone from DEWR liaise with ABS about what material was put up on the web site?

Ms Sadauskas—Yes, an officer of the department did work with ABS and the consultant to fill out a standard form.

Senator WONG—If the ABS have got it wrong, how have they got it so wrong?

Ms Sadauskas—I think it is just a wording issue rather than being wrong. It is to inform the department of a matter that goes before the commission.

Senator WONG—With respect, it is more than just a wording issue. You are refusing to release the information on the basis that it is for advice to government.

Mr Hoy—We are not. I said the report has not been finalised. If and when it is, it is then a matter for government as to what it does with that report.

Senator WONG—So it is still unclear as to whether it will be provided.

Mr Hoy—Correct.

Senator WONG—What the web site says is that this information is for the AIRC.

Mr Hoy—Yes. Ms Sadauskas has acknowledged that the words are perhaps not how they should be.

Senator WONG—Is the contact person on the web site, Mr Oliver, employed with DEWR?

Mr Hoy—Yes, he is an officer of our department.

Senator WONG—In the comment that ‘as expected’ there would be little direct effect from safety net wage increase on employment, what does the ‘as expected’ refer to?

Ms Sadauskas—I cannot comment on those words. My understanding is that that advice was provided by Turning Point Research, the consultant.

Mr Hoy—I said earlier that my understanding was that those words were included by Turning Point Research.

Senator WONG—Is Mr Oliver here?

Mr Hoy—No.

Senator WONG—Who prepared the text for the ABS web site?

Ms Sadauskas—There was combined input from the department and the consultant.

Senator WONG—So the department agreed to the text?

Ms Sadauskas—I would like to take that question on notice.

Senator WONG—The web site text represents collaboration between ABS and the department. Is that correct?

Mr Hoy—No. Ms Sadauskas said that there was collaboration between officers of the department and the consultant, Turning Point Research. They filled in a form, and I think it was then posted on the web site. I do not know what role ABS played in that.

Senator WONG—So you are not able to tell me whose view it is that the impact on employment is ‘as expected’?

Mr Hoy—The advice I have is that those words were provided by Turning Point Research.

Senator WONG—Is Dr Harding at the Melbourne institute?

Mr Hoy—Yes.

Senator WONG—Have you used him before?

Mr Hoy—Yes.

Senator WONG—For what have you used him?

Mr Hoy—We used him for a study on the impact of unfair dismissal on employment practices, which was released in 2002.

Senator WONG—Was it done in the context of the government's proposed changes to the unfair dismissal laws?

Mr Hoy—It was part of that process, yes.

Senator WONG—Was that survey released publicly?

Mr Hoy—Yes.

Senator WONG—The survey suggested that there would be some employment consequences from changing the unfair dismissal laws?

Mr Hoy—Yes.

Senator WONG—So you liked the answer you got then?

Mr Hoy—It was a matter for government.

Senator WONG—What particular expertise does he have that means you let an \$84,000 contract without putting it to tender?

Ms Sadauskas—Dr Harding is an economist, and Dr Harding's skills and expertise were decided by the department to match our needs in this particular exercise.

Senator WONG—Whose decision was it?

Mr Hoy—It was the department's decision to undertake the survey.

Senator WONG—All right, but somebody performed an assessment of his skills that enabled the decision to be made that this not be put to tender and he be granted the contract.

Mr Hoy—Correct.

Senator WONG—Who formed that assessment?

Mr Hoy—The department.

Senator WONG—Which officers in the department, Mr Hoy?

Mr Hoy—Various officers.

Senator WONG—Can you provide me with their names?

Mr Hoy—No.

Senator WONG—Why not?

Dr Boxall—Because this is an issue that the department decided. It is not a matter of identifying individual officers.

Senator WONG—Which section of the department made this decision?

Dr Boxall—It was Mr Hoy's group.

Senator WONG—Was the issue of the use of Mr Harding the subject of advice to the minister's office?

Mr Hoy—No.

Senator WONG—Was it ever communicated to the minister's office?

Mr Hoy—Do you mean the fact that Dr Harding had been contracted?

Senator WONG—Yes, or was going to be.

Ms Sadauskas—No.

Senator WONG—You have not advised the minister or the minister's office of the contract?

Ms Sadauskas—The minister has been advised of the project but the minister was not advised in the process of selecting the person to undertake the contract.

Senator WONG—When Dr Harding performed the unfair dismissal analysis that you referred to, Mr Hoy, did that process go out to tender?

Mr Hoy—I cannot remember. I will need to take that on notice. It was a couple of years ago.

Senator WONG—What was the cost of that particular analysis?

Mr Hoy—I will give you that on notice rather than guessing.

Senator WONG—On that occasion, was Dr Harding's prospective appointment, or awarding of this contract, the subject of advice to the minister's office?

Ms Sadauskas—Not Dr Harding's undertaking the project, no. I am sorry; can you rephrase your question? Are you asking us whether the approval of Dr Harding to undertake that project was made on advice from us to the minister?

Senator WONG—No. Prior to his appointment, was the department's intention to appoint Dr Harding the subject of advice to the minister's office?

Ms Sadauskas—No.

Mr Hoy—The minister was advised of the proposed project, but the processes and selection and contracting was done by the department.

Senator WONG—So at no stage prior to these contracts being given were they discussed with the minister's office on any occasion?

Mr Hoy—No.

Senator WONG—The government has indicated its position in relation to the minimum wage case, has it not?

Mr Hoy—Yes, the submission was lodged yesterday.

Senator WONG—Which was, I think, \$10 a week?

Mr Hoy—Would not oppose an increase of up to \$10.

Senator WONG—Is that the same as the position of ACCI?

Mr Hoy—I think that is the same position as ACCI, yes.

Senator WONG—Is it part of the government's submission that any increase above that amount will have employment consequences?

Mr Hoy—Yes.

Senator WONG—How is that consistent with what is on the web site? The web site says, 'As expected most employers—

Mr Hoy—As I said, that comment was included by the consultant.

Senator WONG—We probably need Mr Cole now, or is it Mr Smythe? I am not sure. I want to ask some questions about question on notice W200-04—output 2.1.1, Workplace relations policy and analysis. I asked on how many occasions has the interpretation of the legislation advocated for by the minister's representative been the same as or consistent with that advanced by the employer, or the employer organisation. I think Mr Smythe answered on the last occasion. The department's answer really avoided answering the question.

Dr Boxall—It is the minister's answer.

Senator WONG—The question is not why the minister makes the intervention in the manner chosen. I simply asked on how many occasions was the government's submission consistent with the submission of the employer.

Dr Boxall—The minister has answered question W200-04, and the department has nothing to add to the minister's answer to the same question.

Senator WONG—On the last occasion, Mr Smythe indicated that he would do some analysis and I think he even said he would ask Mr Cole to assist him. Was that analysis performed?

Mr Smythe—I do not think I said I would ask Mr Cole to assist me.

Senator WONG—'I will have to get Mr Cole to help me with this.'

Dr Boxall—The answer to the question asked last time stands. That is the minister's answer, and we cannot add to the minister's answer unless the question is a different question.

Senator WONG—Since the last estimates has the department performed any work comparing the minister's submission with the submission of employers before the commission?

Mr Smythe—No.

Senator WONG—He performed no work.

Mr Smythe—Correct.

Senator WONG—Did you receive any instructions from the minister on whether or not to perform such an analysis?

Mr Smythe—No.

Senator WONG—Since November how many cases has the minister intervened in?

Mr Smythe—Since the last estimates, I think there has been a further eight or nine. If you wait a moment, I will confirm that—eight.

Senator WONG—Could you provide on notice the total costs associated with each of those interventions since the last estimates.

Mr Smythe—I can take that on notice but I think I can reasonably confidently tell you that we have not paid any bills in respect of those interventions to date. I will take the question on notice.

Senator WONG—In relation to the eight or nine, how many have been briefed externally?

Mr Smythe—Six.

Senator WONG—Since then, in how many cases is the government's position consistent with or supportive of the position of the employer or employer's organisation?

Dr Boxall—We have answered these questions a number of times. The department's position is that the minister intervenes in matters in the public interest. The minister does not intervene in support of one party or the other. The minister intervenes in matters in the public interest. We are not able to answer that question.

Senator WONG—I understand that the minister intervenes in the public interest. I am simply asking: in how many of the eight or nine cases has public money been spent on advocating a position consistent with the employer's position?

Dr Boxall—He intervenes in matters in the public interest and the minister has already answered the same question on notice in the last estimates.

Senator WONG—I am asking about the subsequent ones.

Dr Boxall—The answer is exactly the same as the minister gave last time.

Senator WONG—Perhaps, Minister, you can explain to me why the government is so worried about people knowing whether the public is being asked to spend money on advocates and whether the position of the government is the same as the position of the employer? What is the difficulty with the public knowing what your position is?

Senator Abetz—I am not sure that the government is worried.

Senator WONG—Why don't you tell us then?

Dr Boxall—Because—

Senator WONG—I am asking the minister, Dr Boxall.

Senator Abetz—I do not get the drift of your question.

Senator WONG—I am asking you how many times, when the government intervenes in a matter, do your submissions support the employer and how many times do they support the employee, and you are refusing to answer.

Senator Abetz—No. You have already been told by Dr Boxall that our intervention is not to support an employee argument or an employer argument. Our position is to argue what we believe is in the public interest. That is the basis on which we involve ourselves in a case and no judgment, as I understand it, is made by the minister to determine whether that means he is siding with one party or the other in a particular argument. He is purely and solely focused on the public interest.

Senator WONG—I accept that that is your position.

Senator Abetz—Good. Thank you.

Senator WONG—What I am asking, though, is on how many occasions is the interpretation advocated for by the government the same as that advocated for by the union or by the employer? Obviously, the government has a difficulty in providing that information.

Senator Abetz—I have a very good form of words here that was, in fact, used by the minister on a previous occasion and the chances are that he said it better than I just said it.

Senator WONG—If this is the question on notice—

Senator Abetz—It states:

A formulaic approach is not appropriate in comparing the submissions of the Minister to submissions of parties in a matter ...

I like the word 'formulaic'.

Senator WONG—Nobody is asking whether it is formulaic; it is a very simple proposition. You spend a lot of public money intervening in matters in the commission. I am simply asking on how many occasions is the interpretation advocated for by the government the same as that advocated for by the union and on how many occasions is it the same as that advocated for by the employer? I accept that the decision to adopt whichever position is the one that the minister has to take in the public interest.

Senator Abetz—I am not sure that it would necessarily follow that the government's argument in the public interest would necessarily fall completely within the terms of either the employee or the employer argument. It is not something that exercises the minister's mind. He has a particular case to prosecute or argue which is in the public interest.

Senator WONG—So the answer is that the government will not do that assessment and will not provide that information?

Senator Abetz—The answer that was provided last time still stands. We are motivated by a concern for the public interest, not what might be of concern to a particular employee or employer in a particular circumstance. That is for them to argue.

Senator WONG—Regarding AWAs in the public sector, I think in the annual report there is reference to there being some 8,000 AWAs in the APS compared with about 7,000 the previous year.

Ms Bennett—Which annual report, Senator?

Senator WONG—DEWR, page 156.

Ms Bennett—That is across the Public Service. I am sorry; I thought you were suggesting within our department.

Senator WONG—No. I am sure you would get a pat on the back, Dr Boxall, if you managed that. Do you issue guidelines to departments about the appropriate use and offer of AWAs?

Ms Bennett—Yes, we do.

Senator WONG—Have you previously provided those to me?

Ms Bennett—They are available now on our web site. I think we have provided them previously. They are referred to as the supporting guidance policy parameters for agreement making in the APS.

Senator WONG—They are on the Internet as opposed to the intranet?

Ms Bennett—No, they are on the Australian WorkPlace site—web portal, I think it is called.

Senator WONG—I do not think they were in the last round of questions on notice.

Ms Bennett—I think they were several before.

Senator WONG—Was that before me? Do you have them here?

Ms Bennett—Yes, I do.

Senator WONG—Can I have a copy?

Senator Abetz—Do you need them now for the purpose of further follow-up questions or can they be provided?

Senator WONG—I do, but I can come back to it.

Ms Bennett—We can photocopy them and provide them to you.

Senator WONG—Thank you. Do I understand that one of the key elements of the government's policy is still choice in agreement making—in other words, that employees do have a choice between AWAs and certified agreements?

Ms Bennett—It is covered on page 13 of those guidelines. The government's policy is very clear.

Senator WONG—The guidelines state that policy parameters require agency heads to put in place arrangements that enable any employee to seek to negotiate an ASA and that SES are AWAs. What does that actually mean? Is the advice you provide that it is open—I am talking non-SES here—for agencies to make offers of employment conditional on acceptance of an AWA?

Ms Bennett—I am sorry; can you repeat the question?

Senator WONG—I want to focus on the non-SES band because it seems clear the government's position is that SES should be AWA.

Ms Bennett—The government's position is that APS agency heads are responsible for managing relationships with their employees, consistent with the Workplace Relations Act, and for ensuring that agency agreements—both certified agreements and AWAs—are consistent with those guidelines we have provided.

Senator WONG—Apart from SES employees, and there is clear government policy on this. The government's position, as reflected on page 13 of the guidelines, is that SES employees are expected to be covered by AWAs.

Ms Bennett—That is the stated government policy.

Senator WONG—I will focus on non-SES positions. Is it DEWR's advice to agencies that it is acceptable for agencies to make job offers conditional on acceptance of an AWA?

Ms Bennett—I think it is quite clear in the statement that I read out earlier that government policy is that agency heads are responsible for managing their direct relationship with their employees.

Senator WONG—Just to clarify, does that mean if an agency head determines that an offer of employment were conditional on acceptance of an AWA that that would be consistent with the government's policy?

Ms Bennett—That is consistent in that the agency head has that responsibility and choice.

Senator WONG—The scenario I have outlined would be consistent with the government policy?

Ms Bennett—Yes.

Senator WONG—If the agency head so chose, essentially they can remove an employee's choice to be covered by an AWA or a certified agreement?

Ms Bennett—That was not the question that you asked. There is the Public Service Act, which is also something they have to comply with, which makes a series of requirements for people internally—that is, within the service. Priorities about merit and those internal arrangements are covered in the parameters as well. But the arrangements in which agency heads choose to select which employment arrangement meets the needs of that agency is up to them.

Senator WONG—Would it be consistent with government policy for an agency head to determine that an offer of employment were conditional on acceptance of an AWA?

Ms Bennett—No.

Senator WONG—How was that consistent with your answer that it is up to agency heads to determine?

Ms Bennett—There are a number of categories for employment relationships that are covered under the Public Service Act. Our assessment is that it is not inconsistent with the Public Service Act for agency heads to offer new employees a clear statement of the preferred employment arrangement, which could be on the basis of an AWA. There are different arrangements under the Public Service Act that define movement between agencies and what that basis of promotion is.

Senator WONG—So there is a distinction in terms of existing employees and new employees?

Ms Bennett—Yes, and non-ongoing as well.

Senator WONG—One of the more confusing aspects of public sector employment. So, in relation to new employees, it would be consistent to make a job offer conditional on acceptance of an AWA?

Ms Bennett—It is not inconsistent.

Senator WONG—It is a bit like the little bit pregnant argument. So, if it is not inconsistent, does that mean it would be consistent?

Ms Bennett—It goes back to the point that it is up to agency heads to make that decision.

Senator WONG—If the agency head had decided?

Ms Bennett—In our view it is not inconsistent with the principles set out in the Public Service Act and the implementation of the policy parameters.

Senator WONG—And that is your advice to agencies?

Ms Bennett—If we are asked, yes.

Senator WONG—In respect of such employees, their choice to be covered by a collective agreement would effectively be removed?

Ms Bennett—No. They can choose not to take the employment. They could choose to change their arrangements once they were employed. They could choose to indicate to the agency that they would prefer not to, and then the agency would make a decision. I do not think it is actually removing choice. There are options within that range for new people, as they enter into the service.

Senator WONG—The options being that you take employment on the AWA and hope you can change to a certified agreement later, or you do not take the employment?

Ms Bennett—Or you can say, ‘I would prefer to be employed not under those arrangements,’ and then negotiate with your employer, as you do in most employment arrangements.

Senator WONG—But you have agreed that it would ‘not be inconsistent’—I think was your phrasing—

Ms Bennett—It is not inconsistent with the Public Service Act and the policy parameters for an agency head to choose to offer new entrants into the service an AWA as the preferred agreement-making arrangement.

Senator WONG—Would it be inconsistent with government policy for an agency head to make prospective employment only available if an AWA were entered into?

Ms Bennett—I cannot really add much more than what is provided on page 13.

Senator WONG—That is the question. Point me to the relevant aspect.

Ms Bennett—I think it has been very clear in material that is publicly available that we have shifted from centralised arrangements. It is up to agency heads to work it out and to make that decision.

Senator WONG—I understand that.

Ms Bennett—We provide advice on that question: is it in breach of the policy parameters or the public service award? We have provided that advice.

Senator WONG—If I were an agency head and I sought advice as to whether or not I could make this employment offer conditional upon signing an AWA—in other words, if they do not sign it, I am not going to make the offer—would your advice be that that would not be inconsistent with government policy?

Ms Bennett—Yes, you are right. It would not be inconsistent.

Senator WONG—So in respect of that employee the agency head would effectively have removed any choice to go onto a certified agreement.

Dr Boxall—Ms Bennett has outlined the department's position.

Senator WONG—I am moving on. I move now to the building industry code of conduct. We had a very lengthy discussion about Tullamarine last time.

Senator Abetz—But we are not visiting that again.

Senator WONG—I am visiting it again, but hopefully for not quite as long as we did last time. Can you please clarify the department's role with respect to the application of this code of conduct.

Dr Boxall—It is the same as it was at the last Senate estimates. There has been no change.

Senator WONG—And what is it?

Ms Bennett—It was actually the June estimates, which I do not have in front of me. I think at that time we advised you that our role is to advise agencies and other interested parties about the workplace relations and occupational health and safety sections of the code, monitor and promote compliance with the workplace relations aspect of the code on behalf of the Commonwealth, and provide secretariat services for and chair the Code Monitoring Group. The interim building task force, which is within the department, has a role in investigating alleged breaches of the workplace relations provisions of the code.

Senator WONG—You are the secretariat to the working group, is it?

Ms Bennett—The Code Monitoring Group.

Senator WONG—Can you remind me who is on that.

Ms Bennett—It is listed in the code guidelines. It is the Department of Employment and Workplace Relations, the interim building task force, the Department of Finance and Administration, the Department of Defence, the Department of Transport and Regional Services, Australia Post and the Commonwealth Scientific and Industrial Research Organisation.

Senator WONG—Does the code apply to any building project that receives any government funding?

Ms Bennett—No.

Senator WONG—What proportion of Commonwealth funding attracts the operation of the code?

Ms Bennett—The code applies to where the Commonwealth fully funds it, so that is construction undertaken directly by a Commonwealth agency. It applies to all authorities and companies covered by the CAC Act. It applies to indirect funding through grants and other programs where the value of the Australian government's contribution to a project is at least \$5 million and represents at least 50 per cent of the total construction project value, or the Australian government contribution to the project is \$10 million or more, irrespective of the proportion of Australian government funding.

Senator WONG—Is DEWR responsible for keeping a register of Commonwealth government funded projects for the purposes of assessing compliance with the code?

Ms Bennett—We write out to agencies on an annual basis. We advised this to you at last estimates. We write out on an annual basis and ask what projects they are anticipating making, because they will be linked to budget cycles. I would not describe it as a register, but it is a list of anticipated activity. As the agencies proceed with that we may confirm that those projects have commenced.

Senator WONG—Is it the agency or you who assesses it against the 50 per cent of \$5 million or \$10 million plus?

Ms Bennett—It is government policy that agencies do it themselves.

Senator WONG—You keep a list of all projects for the purposes of the code monitoring group?

Ms Bennett—As far as is possible, but as I said it is government policy so agencies apply this. We keep a list. It is mainly with the view of monitoring projects once it has been confirmed that they have commenced, because the role of the interim building industry task force is to then ensure compliance.

Senator WONG—I will turn to Australia Post. You provided Senator Collins, I think, with an answer to a question on notice regarding quite a number of briefs which had been prepared for the minister regarding this issue. Can you update that list to date?

Mr Lloyd—Can you give us the number?

Senator WONG—It is W204-04.

Ms Bennett—Since last estimates, a further brief was provided to the minister on 11 December 2003.

Senator WONG—Nothing since then?

Ms Bennett—No.

Senator WONG—No further written brief since that time?

Ms Bennett—No.

Senator WONG—I notice that the answer does not refer to any verbal advice.

Ms Bennett—There would be no records of that.

Senator WONG—Have you since the last estimates assessed any new proposals to tender for this project?

Ms Bennett—No. Can I correct that record? We do not assess proposals.

Senator WONG—Have you provided advice to any further interested parties in relation to this project since the last estimates?

Ms Bennett—Yes.

Senator WONG—How many?

Ms Bennett—They are not new parties. They are parties you have previously asked about. We provide an ongoing dialogue with them.

Senator WONG—There are no additional parties?

Ms Bennett—No new parties have contacted us.

Senator WONG—Since November, can I ask with whom you have discussed this and on what occasions?

Ms Bennett—As we explained last time—and I think it is in the *Hansard*—these go to issues of tender arrangements. This is commercial information for Australia Post while it is still in its tender stage. It has not allocated this tender or made a decision. You would have to ask them about those questions. We provide advice to Australia Post.

Senator WONG—You provided an answer to this question on 6 November. You clarified the dates on which you discussed this with issue with Hansen and Yuncken, and you went into quite a bit of detail. Is there a change in government policy so that you do not wish now to provide that?

Dr Boxall—No, Senator.

Senator WONG—So, could you please provide it?

Dr Boxall—No, because, as we explained last time, I think the reason we discussed Hansen and Yuncken was that Australia Post put Hansen and Yuncken's name into the Senate estimates process. We made it very clear last time that we were not going to discuss other potential tenderers or interested parties who may or may not have sought advice from us on this issue. There has been no change in the policy in that regard.

Senator WONG—Can I clarify then, Ms Bennett, your previous answer that you have not had any discussions regarding this with or provided any advice regarding this project to any persons who have not previously been the subject of discussion at these estimates hearings?

Ms Bennett—That is right, Senator.

[8.31 p.m.]

Senator WONG—I turn to output 2.2.3, the Office of Workplace Services. In question on notice W212-04, you were asked, 'Of the complaints you dealt with, how many involved unpaid moneys of various categories, less than \$1,000, between \$1,000 and \$5,000, between \$5,000 and \$10,000, and over \$10,000?' You said this breakdown of complaints is not available. Is it the case that you do not keep any records of the quantum of moneys involved in complaints that you assist with?

Ms Connell—We do not categorise them in that breakdown. We could give you a number for under \$10,000, which I think we provided to you.

Senator WONG—Could you tell me then how you do categorise them? Is it above and below \$10,000?

Ms Connell—We do have that number, yes.

Senator WONG—Tell me what categories you do retain information for, please, Ms Connell.

Ms Connell—We list them; we do not actually categorise them by dollar amount.

Senator WONG—What do you mean?

Ms Connell—We do not categorise them by dollar amount. That is not the way we classify the prosecutions.

Senator WONG—This is not prosecutions; this is complaints.

Ms Connell—Complaints, yes. We do not group them by the dollar amount.

Senator WONG—How do you group them?

Ms Connell—We do not group them. We list them. We have a breakdown by state of origin, perhaps, but we do not actually group them or classify them by the dollar amount.

Senator WONG—You do not think it would be useful to know the pattern of the quantum of complaints you receive?

Ms Connell—We do have the figures but it is not an analysis that we do on a regular basis. We would have to go through each and every prosecution to categorise them in that way.

Senator WONG—We are talking about complaints; I will come to prosecutions. I only want to talk about complaints at the moment.

Mr Lloyd—One point of clarification is that when the complaint is made there is not an amount specified. If an employee feels that they are not getting their full entitlements, or if the complaint relates to wages and conditions or whatever, an amount is not specified when the complaint is made.

Senator WONG—That is not always the case. On occasions, there are quite clear complaints of being owed six weeks annual leave, two weeks redundancy et cetera.

Mr Lloyd—On some occasions there might be a specific amount owed mentioned but that is often not the case.

Senator WONG—Aren't they asked on the form that they fill out to provide an estimate of how much they say they are owed?

Ms Connell—Any figures that they provide would need to be verified anyway.

Senator WONG—I understand that.

Ms Connell—Occasionally they provide a rough estimate but we ask them the nature of the allegations or the entitlements that they believe they are owed.

Senator WONG—Have you ever done any analysis of the sort of quantum of the pattern of moneys of which you receive the complaints?

Ms Connell—Not in any detail.

Senator WONG—What does that mean?

Ms Connell—No, we have not provided that breakdown.

Senator WONG—How many complaints regarding underpayment or nonpayment of wages have been received by the department in the last quarter?

Ms Connell—We have the figure for the July to December quarter.

Senator WONG—That is two quarters.

Ms Connell—Sorry, the half-year figure for 2003. It is 2,419.

Senator WONG—Is that for complaints not prosecutions?

Ms Connell—That is correct.

Senator WONG—Do you have any breakdown of the quantum of moneys alleged to be owed?

Ms Connell—No, we do not.

Senator WONG—Are you able to provide that?

Ms Connell—No, we do not have that breakdown.

Senator WONG—For the September quarter you indicated you received 1,282 complaints. That is at W210-04.

Ms Connell—That is correct.

Senator WONG—You also said at that stage that you had not pursued any of those claims for prosecution. Is that right?

Ms Connell—If that is the answer, yes. I do not have it in front of me.

Senator WONG—Are you able to say how many of those complaints were resolved?

Ms Connell—Is that the September quarter that you are referring to? I am sorry; we do not have those figures with us.

Senator WONG—Let us deal with July to December. Of the 2,419 complaints, have any been the subject of commencement of proceedings?

Ms Connell—No.

Senator WONG—So, of the 2,500 you have not commenced an underpayment claim.

Ms Connell—We have not commenced a prosecution. Was your question about prosecution or investigation?

Senator WONG—Prosecution.

Ms Connell—Then there have been none.

Senator WONG—Presumably you keep records of prosecution's commenced and percentages of success et cetera. What are your most recent figures for this financial year of how many prosecutions you have commenced?

Ms Connell—For the July to December 2003, there were five prosecutions approved.

Senator WONG—Is that five nationwide?

Ms Connell—That is correct. That is out of the 2,383 for the July to December 2003 period. And of those claims, five prosecutions were approved.

Senator WONG—How many were resolved by negotiation and investigation?

Ms Connell—The vast majority of the remainder of claims are resolved.

Senator WONG—In how many of the remaining 2,278 claims did employees receive moneys?

Ms Connell—The vast majority do receive their entitlements.

Senator WONG—Do you keep statistics on this?

Ms Connell—Yes, we do.

Senator WONG—Can you give me the statistics?

Ms Connell—What figure would you like?

Senator WONG—What figure do you have?

Ms Connell—We have the total recoveries for employees for that six-month period—the total dollar figure.

Senator WONG—No, I do not want the dollar figure. I want the number of complaints in which money was recovered. Do you keep those figures?

Ms Connell—We could take that on notice, but the preliminary figures we have with us suggest that 794 employees received moneys.

Senator WONG—Do you do these statistics quarterly or half-yearly?

Ms Connell—We do them quarterly.

Senator WONG—Therefore, on notice, could you provide me with the total number of complaints received for the last three quarters, how many of those complaints resulted in prosecution, and how many of those complaints were complaints in which, through negotiation and investigation, the employee received moneys? On the figures you have provided, it is certainly a very low percentage of the total number of complaints.

Ms Connell—What is a low percentage, Senator?

Senator WONG—Five prosecutions in 794 complaints receiving money from over 2,000 claims.

Ms Connell—The vast majority of our complaints are resolved voluntarily.

Senator WONG—Then they would be within the 794, wouldn't they?

Ms Connell—They are the ones that received moneys; that is correct.

Senator WONG—So that means that about 1,400 complaints did not receive anything?

Ms Connell—They are in the process of being finalised. The claims were received, not necessarily processed in that time.

Senator WONG—Do you do an analysis of your statistics to show a success rate? For instance, of every 100 complaints you receive, this percentage go to prosecution and this many result in moneys being paid. Do you track that over the years?

Ms Connell—We do track the outcome of each of the claims, and 99 per cent of all claims are resolved voluntarily in that the breaches are remedied. Some of those involve a payment to the employees; some of those involve a rectification of the conditions of employment.

Senator WONG—Is that a statistic that you have actually confirmed—that 99 per cent of complaints are resolved?

Ms Connell—Yes, 99 per cent are resolved voluntarily, without the need to go to any form of prosecution.

Senator WONG—What percentage of them result in people being paid? Do you have those statistics?

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

Senator WONG—You do not know what percentage of claims actually result in money being paid?

Ms Connell—We keep a record of the number of claims that are resolved, but converting that to a dollar figure, they do not all result in—

Senator WONG—No, I know they do not—that is my point. Isn't this one of your performance indicators?

Ms Connell—No, it is not.

Dr Boxall—It is actually an excellent performance; for every 100 complaints, 99 are resolved.

Senator WONG—It does not bear up with the figures Ms Connell has given me tonight I am afraid, Dr Boxall, but it may be that—

Dr Boxall—She just gave the figures; she just said that 99 per cent of the complaints are resolved.

Senator MARSHALL—But doesn't it also indicate that there are around 1,400 that are still in process?

Dr Boxall—My understanding, and I am happy to be—

Senator MARSHALL—I must say the figures have confused me too.

Dr Boxall—No, Ms Connell has just testified what the figures are and what the department's position is.

Senator WONG—Can you provide me with the raw data to back up the 99 per cent, Ms Connell?

Ms Connell—Sorry, I have just been corrected: it is 90 per cent not 99 per cent. It was my mistake.

Senator WONG—Are people who do not receive money included in that? You count that as a resolution?

Ms Connell—That is correct.

Dr Boxall—The question is that the department is testifying that 90 per cent of the complaints are resolved. Senator Wong, you are asking us: of the 90 per cent, how many involve the payment of money?

Senator WONG—What I am confirming is that the 90 per cent does include people who do not receive any moneys.

Dr Boxall—Some cases are resolved and there is payment of money, and some cases are resolved and there is no payment of money.

Ms Connell—That is correct.

Senator WONG—What proportion of cases are resolved without payment of money and what proportion of cases are resolved with payment of money?

Ms Connell—That is what we need to take on notice.

Senator WONG—How many officers do you have that are able and qualified to commence and run prosecutions?

Ms Connell—Did you say officers or offices?

Senator WONG—How many officers do you have?

Ms Connell—We have 91 inspectors at the moment.

Senator WONG—Inspectors are people who can go out and inspect books et cetera, yes?

Ms Connell—They can investigate breaches under the Workplace Agreements Act.

Senator WONG—Are they qualified to commence proceedings in relevant industrial jurisdiction?

Ms Connell—Yes, they are.

Senator WONG—And there are 91 inspectors?

Ms Connell—That is correct.

Senator WONG—What proportion of their time do they actually spend on legal proceedings in court? Do they actually do that?

Ms Connell—I do not have a breakdown of the proportion of their time. I could not tell you specifically.

Senator WONG—Do these 91 people have advocacy experience?

Ms Connell—No, not necessarily.

Senator WONG—So why are they qualified?

Ms Connell—Their main role is to investigate breaches of the agreement.

Senator WONG—So they are not lawyers?

Ms Connell—No, they are not lawyers.

Senator WONG—Are any of the 91 lawyers?

Ms Connell—I could not tell you offhand.

Senator WONG—Are they qualified to appear before industrial courts?

Ms Connell—Some have received that training, yes.

Senator WONG—How many?

Ms Connell—They have all received the training, so they are all able to fulfil that role if required.

Senator WONG—All 91 of them? What is the training?

Mr Kibble—We have training for people imported as inspectors and that is training that they complete, which includes the range of functions that they perform in completing their duties.

Senator WONG—Is this done in-house?

Mr Kibble—Yes.

Senator WONG—How long is this training? Are we talking about weeks, days, what?

Mr Kibble—It is a combination of off-the-job and on-the-job training, and it goes over several weeks.

Senator WONG—These people are not industrial advocates, are they?

Mr Kibble—No.

Senator WONG—And it is the case, isn't it, that that is the real reason behind the extraordinarily low number of prosecutions you commence?

Dr Boxall—The real reason behind the extraordinarily low level of prosecutions is the overwhelming success of the office in solving 90 per cent of the complaints voluntarily.

Senator Abetz—Do you want us to move to a litigation society? I thought everyone was trying in every area of life to get away from litigation and to resolve issues.

Senator WONG—We are talking about people being underpaid, Minister. I would have thought that even your government would expect people to be paid properly.

Senator Abetz—We can talk about people being underpaid with insurance claims as well. Everybody is saying that the way to go is to try to resolve rather than to litigate. I would have thought that ought to be a big tick for the department as opposed to a matter of complaint.

Senator WONG—Not if employees are told, 'We can't run this, so you may as well accept the lower offer that's on the table.'

Dr Boxall—I am advised that 90 per cent of the cases are resolved voluntarily.

Senator WONG—Do you have a budget for the external provision of legal services—that is, to brief externally?

Ms Connell—We do have a departmental budget for that, yes.

Senator WONG—What does that mean?

Ms Connell—It comes out of our legal and risk branch within the department.

Senator WONG—Within DEWR?

Ms Connell—That is right.

Senator WONG—Do you ever access it?

Ms Connell—Yes, we do.

Senator WONG—How much was accessed by your office this financial year? You can take that on notice if you wish.

Ms Connell—Are you talking about hours or number of cases?

Senator WONG—Perhaps we are talking at cross-purposes. What I was asking was: are you able to brief externally?

Ms Connell—Yes.

Senator WONG—Where does that money come from?

Ms Connell—It comes from the risk and legal branch budget.

Senator WONG—How much have you spent on external counsel this financial year?

Ms Connell—We will need to take that on notice.

Senator WONG—Similarly, do you have a budget for legal fees such as court fees and filing fees?

Ms Connell—It is the same budget. Yes, I will take that on notice.

Senator WONG—Can you provide, again, year-to-date figures on that?

Ms Connell—Yes.

Senator WONG—Thank you. What proportion of the complaints received about underpayment of wages or entitlements was from the building and construction industry in the last quarter or the last six months, whichever figures you have?

Mr Kibble—There were 92 complaints.

Senator WONG—How many of those have been resolved? Are you able to say? How many of those resulted in the recovery of money? You may need to take that on notice, given your last answers.

Ms Connell—Yes, we will. We do not have that information.

Senator WONG—Again, are you able to provide me with figures in relation to those 92 of the quantum of moneys sought?

Ms Connell—No, sorry. We cannot provide that information. We do not break down that information.

Senator WONG—What do you have? What do you break down?

Ms Connell—Exactly the same—the number of complaints received, the number that were resolved and the number that were required to proceed to prosecution.

Senator JOHNSTON—I want to talk about Trades Recognition Australia. Does anybody know about that?

Ms Connell—Yes.

Senator JOHNSTON—Are you aware of any problems with the graduate skilled visa expiring before TRA complete the processing of an application? Does that mean anything to you?

Ms Connell—No, I am sorry. It does not.

Senator JOHNSTON—The current situation, as I understand it, is that there is a six-month bridging visa for people who come to Australia to get their qualifications done, to

continue on as a tradesperson and to qualify through Trades Recognition Australia. I am told that the recognition testing is done in complete isolation from the visa processing situation such that the visa expires before these people have an opportunity to qualify. Does this not mean anything to you? You have never heard about this problem?

Ms Connell—No. Apparently some time ago there were some discussions on this issue with DIMIA.

Senator JOHNSTON—Good, that is a start. Why did we have those discussions? What is the nature of the motivation behind those discussions?

Ms Connell—Apparently it was following on from the issue being raised by one of the applicants.

Senator JOHNSTON—I think there are some substantial problems. I am aware of about half-a-dozen examples where students who are on student visas convert those visas to a graduate skilled visa. The graduate skilled visa is backdated to the time of the completion of the course generating the student visa. The graduate student visa is a six-month visa. They have to have their course results to complete their application, as you would know, for Trades Recognition Australia. Whilst I do not profess to know much about the system, I know a little bit about it. What happens is that they effectively only have about 4½ months to have their application processed before the graduate skilled visa expires.

I am very surprised that you do not know about this. The reason you do not know about it is that the complainants are no longer on shore; they have all been removed, I take it. Could you take this issue on notice for next time—it may be budget estimates—because I want to get to the bottom of what is actually going on here. We need to reconcile the processing time for these accreditation reviews. I take it what you do is you look at what has gone on with the particular applicant in terms of qualification and you make a determination—let's say it is a cook—as to whether the qualifications of that particular applicant meet the standards. I think the standards are AQF3 and those sorts of standards. Does that mean something to you?

Ms Connell—Yes.

Senator JOHNSTON—Apart from the discussion you have adverted to, we do not have any connection with DIMIA as to the synchronisation of your work and time frames and the expiry of their visas. Is that the situation?

Mr Jasprizza—There are arrangements in place, and it has been brought to the attention of the department, where some of these applicants can be given priority over other applicants because of their circumstances.

Senator JOHNSTON—That involves the payment of a \$200 fee, I believe.

Mr Jasprizza—There is payment of a fee involved with that, yes. As a priority application we still need to have all the information that is required in order to make an assessment. Sometimes there are delays in getting that information, because applications are often made offshore so information is required from overseas. There has been some communication with immigration about this issue, but in terms of visa applications and extensions of visas, that really is a matter for DIMIA.

Senator JOHNSTON—It is a matter for DIMIA, but the core function of this particular aspect that I have brought to your attention is the recognition of the qualifications of a person who is going to carry out a trade here in Australia. That person has spent a lot of money, firstly often doing English language courses back home—in whatever country they have come from—secondary school here and then a trade qualification here. Then they are seeking to have those qualifications recognised. You can see the nature of the problem. We can paint the scenario. You leave the course, say, in early December. You do not get those course results through until maybe the middle of January. The course results must go on the application for accreditation, but the visa is backdated to commence early December. I am sure you know about this.

Mr Jasprizza—Yes.

Senator JOHNSTON—That leaves five months or even less, depending on what other problems there might be with the application. It is fairly technical application from what I saw on the web site when I was looking for trades recognition. Did you call it TRA?

Mr Jasprizza—Trades Recognition Australia.

Senator JOHNSTON—So you do not abbreviate it?

Mr Jasprizza—Yes.

Senator JOHNSTON—It is a fairly complicated application where you need work experience from employers over a long period, particularly if the people are coming in and doing some sort of course that is not actually pertinent to their trade. If they are doing an English language course but they want to have their cooking skills acknowledged, they have to have six years experience—I think is the bottom line. They have to show you that work history. The application is fairly complex. As I say, a number of people are simply getting to the threshold where they would ordinarily meet your requirements, but because of some technical difficulty, something inadvertent in the application, the application gets sent back. They have to pay another fee to reodge—that is what I am told—and then the visa expires. The core function is to get these people in their trade, working onshore. Are we not making some submissions to DIMIA to fix this situation up so that the graduate skilled visa actually meshes in with what we are seeking to achieve, by having you approve them?

Mr Jasprizza—As I indicated before, there have been some discussions with DIMIA over this matter, and DIMIA have taken it on board. But I cannot speak for Immigration.

ACTING CHAIR (Senator Barnett)—Mr Jasprizza, I think the senator asked that it be taken on notice.

Dr Boxall—We will take it on notice, we will consult with DIMA and we will advise something to the minister so that it can be answered on notice or, alternatively, at the next estimates.

Senator JOHNSTON—A work in progress.

ACTING CHAIR—Thank you, Dr Boxall.

Proceedings suspended from 9.03 p.m. to 9.17 p.m.

ACTING CHAIR—We are on the employee entitlement safety net schemes.

Senator WONG—I assumed that GEERS engages accountants or pays moneys at times to accountants, receivers, insurance agents and the like—external providers of services.

Ms Connell—Yes, we do from time to time.

Senator WONG—Are you able to provide me with the costs in this financial year for those services?

Ms Connell—We do not have the amount for this financial year, I am sorry.

Senator WONG—What do you have?

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

Senator WONG—Do you have any ongoing contracts for such services that are still on foot?

Mr Maynard—We have a panel of providers and we pay them on piecemeal work. The price for each individual piece of work is negotiated before it is commenced.

Senator WONG—Who is on the panel?

Mr Maynard—There is a very large number of accountants all across Australia. I do not have the list of the individual companies.

Senator WONG—Could you provide that. Are you also able to indicate at the current time what contracts have been entered into in relation to which providers?

Mr Maynard—We have literally thousands of cases that we deal with in the employee entitlements safety net schemes; therefore, we have quite reasonably hundreds of contracts. Are you proposing that we provide a list of each and every one of those?

Senator WONG—It seems a bit excessive, doesn't it? Why don't you give me a list of the persons or organisations on the panel, the costs for the last financial year and the costs for this year to date.

Mr Maynard—Yes.

Senator WONG—We had some discussions last time about deeds of company arrangements.

Mr Maynard—I have just been handed some paperwork, Senator. In terms of the costs for the IPs and accountants for this financial year to date it is \$0.5 million. For the last financial year it was \$0.88 million.

Senator WONG—IPs?

Mr Maynard—Insolvency practitioners; I am sorry—more acronyms.

Senator WONG—How do you choose which insolvency practitioner to use?

Mr Maynard—We do not choose the insolvency practitioner.

Senator WONG—So what is the nature of your legal relationship with the insolvency practitioner? What do you purchase from them?

Mr Maynard—We purchase from them the provision of verified employee entitlement data in the event that there are no assets in the company and they cannot and would not normally do that as part of their business.

Senator WONG—On the last occasion we discussed discriminatory deeds—the first in relation to Open Telecommunication. Has there been any progress in respect of their GEERS payments?

Mr Maynard—No. The insolvency practitioner and the directors of the company have advised us that they have no intention of changing the existing deed of company arrangement which does not comply with the GEERS operational arrangements.

Senator WONG—Those 91 employees have not yet been paid their entitlements?

Mr Maynard—They have not been paid. They are not entitled to it because the deed of company arrangement does not comply with the operational arrangements.

Senator WONG—Just remind me: was it the fact that the alteration of the priority payments may affect GEERS entitlements. Was that before the deed of arrangement was approved?

Mr Maynard—That is a point that has some ambiguity associated with it. That is a matter that is being investigated by ASIC.

Senator WONG—So there is no intention on your part to take any action in relation to that deed on behalf of those employees?

Dr Boxall—The answer in relation to Open Telecommunication employees stands as the minister answered on notice—W244-04. There is no further progress on that. The employees remain ineligible.

Senator WONG—Have any of the employees sought the assistance of the department in challenging the DCA?

Mr Maynard—There have been a number of communications with the employees who have sought to obtain advice about the operations of the scheme, so they might be able to inform themselves more fully. To my knowledge, none of them have asked the department to join with them in legal action.

Senator WONG—Or to initiate legal action or to fund legal action on their behalf?

Mr Maynard—Not to my knowledge. I am sorry; I cannot recall.

Senator WONG—Are you aware as to whether or not the creditors have been paid out pursuant to that deed?

Mr Maynard—I do not have that information.

Senator WONG—So you are not aware whether or not these people have been paid any entitlements under the deed?

Mr Maynard—I do not know.

Senator MARSHALL—Would the department be prepared to assist the employees with legal support? It just occurs to me that it seems to be patently unfair in terms of good policy

outcomes that people can lose out on an entitlement to GEERS on the basis of those legal processes.

Dr Boxall—The government's position is that it is not patently unfair. There are very clear guidelines about GEERS and one aspect of the guidelines is that the Australian government—that is, the taxpayer—can stand in the shoes of the employees in the event that there is a payout. What apparently has happened here is that the deed of company arrangement was altered such that the position that the Australian government would have been in was detrimental. So in a sense there was an attempt to cost-shift, at the expense of the Australian government, to other creditors. This issue has been dealt with.

Senator MARSHALL—That is not the fault of the employees, though, is it?

Dr Boxall—The employees, as I understand it—you can inform me otherwise, Senator Marshall—were party to the change in the deed of company arrangement.

Senator WONG—Were they advised prior to voting on the DCA?

Dr Boxall—My understanding—and I can be corrected—is that the insolvency practitioner, or the other relevant authority, sought the advice of the GEERS staff before this took place and it was explained to them what would happen if they went ahead with that arrangement. Nevertheless, collectively the creditors apparently went ahead.

Mr Maynard—Yes. The creditors voted in favour of the deed of company arrangement, which upset the normal distribution of priorities.

Senator WONG—I understand that. It would not be an effective deed if they had not. You said—when I asked you this before, Mr Maynard—that the issue of whether or not employees were advised of the effect of the deed prior to the deed being voted on was an issue of ambiguity.

Mr Maynard—That is correct. There is some information from the insolvency practitioner to suggest that they were informed of this matter. There is some information from individual claimants to say that they were not. The matter has been referred to ASIC for investigation.

Senator WONG—It does not seem a particularly good policy outcome that a deed can be voted on by creditors.

Mr Maynard—That is the government's policy. It is a matter now for ASIC to follow through and investigate.

Senator WONG—Has this issue of the potential effect of discriminatory deeds on people's GEERS entitlement been advised to employees and employee organisations?

Mr Maynard—The operational arrangements make it clear what the requirement is in relation to the deeds of company arrangement. Every time a new case comes up the insolvency practitioners are provided with a kit which makes it clear what the requirements are with a deeds of company arrangement. At least twice each key industry body and union has been written to explicitly setting out the requirements of the operation and specifically drawing its attention to the deeds of company arrangement requirements. It is incumbent then on the insolvency practitioners to make that clear to all of the creditors at the creditors meetings when voting on a deed of company arrangement.

Senator WONG—But the other creditors do not care, do they? Essentially, what this means is that employees can be rendered ineligible for the government's assistance because other creditors determine a deed which alters priority payments.

Mr Maynard—It is potentially possible for that to occur, yes.

Senator WONG—So there is a hole in the government's entitlements scheme.

Dr Boxall—No, there is not a hole in the government's entitlements scheme. The government has made it very clear what the guidelines are. Mr Maynard has just testified on behalf of the department that the department has informed insolvency practitioners, unions and other employee organisations about this. The bottom line is that if there are irregularities or people are asked to vote on things in a deed of company arrangement which they are not properly informed about then it is an issue for ASIC, as I understand it.

Senator WONG—But employees can be outvoted. Essentially, what the government is saying is, 'We'll pay you money, but if other creditors outvote you and put in place a deed which changes the priority payments, our entitlements scheme will not be available to you.'

Dr Boxall—No. What the government says is that, if the taxpayer is going to step in and fund employee entitlements, the government stands in position in line to recover whatever assets there are. Otherwise, if the government were to allow itself to be downgraded in terms of priority, there would be every incentive for creditors and employees to vote to downgrade the government's standing, knowing full well that the employees would still receive the entitlement even though the government's priority had been pushed down to the bottom.

Senator WONG—I agree with you, Dr Boxall. I am suggesting that perhaps it is more a question for the minister. There should be provisions in the Corporations Law which prevent these deeds from being effective. That way you would actually ensure that employees get their entitlements.

Senator Abetz—That is an interesting proposition, and I am sure the minister will read the *Hansard* very carefully—

Senator WONG—I am sure he will.

Senator Abetz—and give it the due consideration it deserves.

Senator MARSHALL—It is a hole in the public policy position. I understand and accept what is being said but at the same time employees, through no fault of their own, can miss out on GEERS through that. I understand everything that is being said, but it still has that potential. I am not saying there is an easy fix—I cannot think of one right now. The department and the government ought to be considering how to close that potential problem.

Senator Abetz—If we were to accept your point, that would really be an issue of policy and I do not think we can pursue it further.

Senator WONG—Question W245-04—you answered that 'Universal Telecom is not a GEERS case.' I recall seeing, in a joint parliamentary inquiry into insolvency laws, correspondence from the department to ex-employees of Universal Telecom indicating that, due to the deed, they were not entitled. I am a bit confused about this answer.

Mr Maynard—To assure myself of this answer, I went back and looked at our database. It is not a case registered on our database. I also went to the ASIC database. Universal Telecom has never been insolvent and therefore would never be eligible for assistance under GEERS. Consequently no claimant, had there been one, would have been detrimentally affected.

Senator WONG—Have you found the correspondence generated from the department?

Mr Maynard—No. There are no files; there is no electronic or paper based file in relation to Universal Telecom.

Senator WONG—I will go back to it then. Is the Swish Group still operating or is it in liquidation?

Mr Maynard—My understanding is that the Swish Group continues to operate.

Senator WONG—There are employees who have sought GEERS assistance.

Mr Maynard—That is correct.

Senator WONG—On what basis have they sought that?

Mr Maynard—My understanding is that a number of employees have been terminated while under the control of an external administrator. The company has, through its insolvency process, entered into a deed of company arrangement which is not consistent with the GEERS operational arrangements. Consequently, we have gone into discussions with the insolvency practitioner seeking to have the deed of company arrangement amended so that it is consistent with our operational arrangements and GEERS assistance might be provided. The insolvency practitioner has not agreed to that process.

Senator WONG—When were these employees terminated?

Mr Maynard—Just bear with me as I look for that piece of advice. The employees were terminated between November 2002 and January 2003 over a three-month period.

Senator MARSHALL—I stand to be corrected in this but I have written to the minister about this matter. I recall that the response indicated that the only reason the employees had not been processed is that the administrator was non-cooperative about providing the details of the moneys owed. As I say, I stand to be corrected because I am now doing this from memory. If I am right, that is not consistent with—

Mr Maynard—The circumstances may have evolved over time and that might have been an initial problem. Our problem at this point in time is that a deed of company arrangement has been entered into which is inconsistent with the GEERS operational arrangements. Consequently, we cannot provide assistance to these employees.

Senator MARSHALL—Am I able to get a briefing from the department about the detail of this case, given that I have actually written to the minister about this?

Dr Boxall—Normal procedure would be for you to ask our minister and he will let you know.

Senator MARSHALL—I will do that.

Senator WONG—Is it the case that employees of Westlakes Community Training Services have been waiting since 12 November 2003 to receive their entitlements under GEERS?

Mr Maynard—I am sorry; I do not know. As I mentioned before, we have had literally thousands of cases. I do not know each and every one of them.

Senator WONG—Perhaps you can take that on notice.

Mr Maynard—Yes.

Senator WONG—Do you track the time frame for payment upon application?

Mr Maynard—Yes, we have two KPIs which we report upon in our annual report. At this point in time, we are running at 95 per cent of claimants having funds paid within four weeks of receipt of verified data from the employee entitlements.

Senator WONG—And you are not familiar with the Westlakes Community Training Services?

Mr Maynard—No, I am sorry; I do not know that case.

Senator WONG—Could you, on notice, indicate when the applications were received, if they have been paid and, if not, when they can be expected to be paid?

Mr Maynard—I will take that on notice.

Senator WONG—If we have finished with questions on GEERS, I have some questions regarding the ANAO's report on the Special Employee Entitlement Scheme for Ansett. Can I confirm that the Audit Office indicates that, although DEWR obtained probity advice on the selection of the special employee entitlements scheme, they did not obtain probity advice on the selection of the financier; is that correct?

Mr Maynard—It is the department's position that the selection of the financier was a contractual obligation on the successful tenderer to deliver services under SEESA. The process was conducted by our successful tenderer, SEES Pty Ltd. They provided comparative documentation to support an assessment to the Commonwealth—to the Department of Employment and Workplace Relations and the Department of Finance and Administration—and the successful financier was selected in that way.

Senator WONG—Isn't it the case that CBA made an unsolicited proposal to act as financier of the scheme?

Mr Maynard—Three financial institutions made unsolicited proposals to provide financial services to deliver SEESA following the passage of the Air Passenger Ticket Levy (Collection) Act. It was public knowledge that such an arrangement was in place. We received three unsolicited proposals. Each was dealt with in exactly the same way, and the ANAO have chosen to identify one of those. All I can say is that all three were dealt with in exactly the same way.

Senator WONG—I am not clear what you are saying, Mr Maynard, Is it or is it not the case that DEWR obtained probity advice on the financing aspect of the scheme?

Mr Maynard—No, we did not obtain probity advice on the financing of the scheme. It was a contractual obligation of SEES Pty Ltd to select a financier and to provide DEWR with their selection. Consequently, there is no need for us to obtain probity advice on that process.

Senator WONG—Although the Audit Office does indicate some concern that documentation for the various steps in the approval process was not provided.

Mr Maynard—The piece of documentation that is referred to by the ANAO is the minutes of one meeting out of a process which involved, if I recall correctly, at least five meetings between various parties looking at the relative merits and proposals put forward by financiers. There is a range of other contemporaneous material which was not taken into account, and I feel that the finding of the ANAO report might have been better set in that context.

Senator WONG—What was the basis of the decision to appoint the Commonwealth Bank?

Mr Maynard—The basis of the selection of the Commonwealth Bank to deliver the service was against the criteria that were established at the start of the process to select the financier, which included the cost, the ability and the willingness to provide the level of funds.

Senator WONG—Who made that decision?

Mr Maynard—Who made the decision on the criteria or on the selection?

Senator WONG—The selection.

Mr Maynard—The selection was made by SEES Pty Ltd. They provided us with the comparative reports and the department agreed with their advice in terms of the comparison. Consequently, CBA was contracted by SEES Pty Ltd.

Senator WONG—The ANAO report refers to the fact that DEWR was not able to provide any documentation of the final decision to select the CBA's financier.

Mr Maynard—The piece of evidence that the ANAO sought was the minutes of one meeting out of a series of approximately five meetings in the selection process. As I say, there was a range of contemporaneous material both leading up to and immediately following the particular meeting, which contained all of the relevant material from the department's perspective, which the ANAO did not use as part of their audit.

Senator WONG—But you could not find the minutes; is that right?

Mr Maynard—That is correct.

Senator WONG—How much was this decision worth to the CBA?

Mr Maynard—Off the top of my head, I would not be able to estimate the value of the particular selection process. Having said that, as I say, there was considerable documentation immediately before and immediately after that meeting that set out what happened in that meeting, but the minutes of the meeting were not formally documented. Consequently, the ANAO has criticised the lack of minutes of that meeting.

Senator WONG—On what basis did the bank make its unsolicited proposal to the minister?

Mr Maynard—I would have to assume that it was on the basis that it was advertised through the press, given that the passage of the Air Passenger Ticket Levy (Collection) Act happened immediately after the collapse of Ansett. The method by which SEESA was to be provided with a loan was through the private sector and the CBA—like the other two banks, which also did exactly the same thing, looking for business—wrote to a variety of people saying, ‘How can we be part of this?’

Senator WONG—Did their proposal show a detailed knowledge of the proposed scheme?

Mr Maynard—Each of the proposals made offers that were in general terms that they wished to provide funds so that they might finance the provision of the SEESA loan.

Senator WONG—Was the Commonwealth’s more detailed?

Mr Maynard—The Commonwealth’s drew upon the experience that the Commonwealth had from the Maritime Industry Finance Company loan arrangement.

Senator WONG—Dr Boxall, do I assume that DEWR has taken on board the ANAO’s criticisms.

Dr Boxall—DEWR have given a response to the ANAO’s comments. We have given our response at appendix 6.

Senator WONG—Where in that do you respond to the criticism at 4.48—that your department should be concerned that no documentation for this approval can be provided as part of its accountability obligations?

Mr Maynard—The response to the relevant chapter is on pages 175 through to 177.

Senator WONG—Mr Maynard, you really do not know anything about Westlake?

Mr Maynard—I am sorry, Senator, I do not know about that particular case.

Senator WONG—It is interesting. I understand that the minister was asked about it in question time this week. You have not been requested for a briefing on it.

Mr Maynard—Not as yet.

Dr Boxall—We can provide a little more information on voting to change deed of company arrangements, which might be of interest to Senator Marshall and Senator Wong.

Mr Carr—The employee creditors along with all the other creditors of an insolvent entity have certain protections under the Corporations Act. They can approach a court such that if the effect of a deed of company arrangement is unfairly prejudicial the court has the ability to amend that deed or overturn it and then provide all the creditors with the protection under liquidation. That option is free to the employee creditors of Swish.

Senator WONG—But they have to take quite expensive legal action.

Senator MARSHALL—If they ask for that advice from the department, would the department give them that advice formally?

Mr Carr—What advice would they ask from the department—legal advice?

Senator MARSHALL—Effectively that—what their options are.

Mr Carr—It is not a complex option; it is a self-help and self-evident remedy. The insolvency practitioner could provide them with that advice. ASIC could provide them with that advice. In the informal correspondence that is had with the department they are well aware of that option, and I believe they are considering that.

Senator MARSHALL—Mr Hadgkiss, on 22 January this year, Mr Reynolds, the Secretary of the CFMEU in Western Australia, wrote to Mr William Taylor—and I understand that the letter was passed on to you—and inquired as to who was the person in the company of Mr Marcus Clarke, who I understand is a member of the interim building industry task force, who attended the site on that day and refused to identify himself. You responded in writing that the person accompanying Mr Clarke was not a member of the building industry task force. Who was he?

Mr Hadgkiss—I do not know, Senator.

Senator MARSHALL—How did you ascertain that he was not a member of the building industry task force?

Mr Hadgkiss—In composing the letter to Mr Reynolds, I made inquiries of the Perth office and in particular of Inspector Clarke, and I was informed that he was not a member of the task force or an inspector under the Workforce Relations Act.

Senator MARSHALL—And you did not ask who it was?

Mr Hadgkiss—Correct.

Senator MARSHALL—Why?

Mr Hadgkiss—I did not see it relevant.

Senator MARSHALL—Would members of the task force be in the habit of taking other people on site inspections with them?

Mr Hadgkiss—As I understand it, he was not accompanying Investigator Clarke.

Senator MARSHALL—Mr Reynolds sent you photos which clearly show that they were together.

Mr Hadgkiss—It shows two people depicted together on various Perth sites. That is my information.

Senator MARSHALL—So did you ascertain whether the person was or was not with one of your inspectors?

Mr Hadgkiss—He was not with one of my inspectors, no.

Senator MARSHALL—So your position is that he did not accompany your inspector and he is an unknown person.

Mr Hadgkiss—That is my understanding. Who he is I do not know.

Senator MARSHALL—You said you did not make inquiries about who he may have been. Are you prepared to make such inquiries?

Mr Hadgkiss—No, Senator.

Senator MARSHALL—Why?

Mr Hadgkiss—I do not see it relevant to the remit of the task force.

Senator MARSHALL—Unless the task force is taking tours of building sites, I find it strange that you would not want to know.

Mr Hadgkiss—My instructions when I made inquiries were that he was not accompanying anybody from the task force. He just happened to be a member of the public who happened to be photographed in the company of Clarke.

Senator MARSHALL—How do members of the public get on sites like that?

Senator Abetz—That is not for the witness to answer. He cannot answer that.

Senator MARSHALL—They investigate these sorts of issues every day. I think it is probably very fair for him to answer that. Are members of the public just allowed or able to walk into construction sites?

Mr Hadgkiss—It is up to the site manager, Senator.

Senator Abetz—Yes, they are not the site manager.

Senator MARSHALL—Who did you make inquiries of on this matter?

Mr Hadgkiss—I made inquiries of the Perth office.

Senator MARSHALL—Of whom specifically?

Mr Hadgkiss—From recollection, it was a member of the task force.

Senator MARSHALL—Which member of the task force?

Mr Hadgkiss—I am not at liberty to name non-SES personnel, Senator.

Senator MARSHALL—Was it the manager?

Mr Hadgkiss—From recollection, no.

Senator MARSHALL—Was it the other person on site?

Mr Hadgkiss—Yes.

Senator MARSHALL—So you spoke to him, and his position was that the person was not accompanying him.

Mr Hadgkiss—That is correct. That is my information.

Senator MARSHALL—Do you agree that the photos actually showed them shoulder to shoulder, both looking at one individual, talking to them? You did not find that it was a bit strange for just a member of the public that seem to have walked in from off the street being shoulder to shoulder and both talking to another person?

Mr Hadgkiss—The so-called pictures conveyed to me are really not specific and, indeed, I am not even sure it is one of my investigators.

Senator MARSHALL—Because you have not seen him in person or because you do not recognise him?

Mr Hadgkiss—I am very familiar with him, but if you look at the poor quality of the photograph—again, as I say, I am not sure who, if any, is one of my investigators.

Senator MARSHALL—If you had a better quality photograph that demonstrated the point I was making, would you be prepared to make further investigations?

Mr Hadgkiss—No.

Senator MARSHALL—Why not?

Mr Hadgkiss—I see little point in what it will gain.

Senator MARSHALL—Do task force inspectors have people who are not other task force inspectors accompanying them on sites from time to time?

Mr Hadgkiss—There could be instances of that, yes.

Senator MARSHALL—In what capacity?

Mr Hadgkiss—They could be consultants. They could be people the site manager has asked. They could be union members. They could be OH&S inspectors from the various jurisdictions.

Senator MARSHALL—Are you able to give me a breakdown of costs that have been incurred by the task force for consultants that may accompany task force inspectors? Could you also categorise the qualifications or the requirements—that is, whether they are lawyers, investigators, private investigators or whatever?

Mr Hadgkiss—The answer is zero. We have never paid for any consultants to accompany task force investigators.

Senator MARSHALL—You just told me a moment ago that from time to time consultants may accompany inspectors.

Mr Hadgkiss—They may indeed. The site manager invariably, if there is an OH&S dispute, will call in consultants.

Senator MARSHALL—You may have taken me out of context. When I said ‘accompanying an inspector’, I meant that the inspector had organised such a thing on behalf of the task force or in his official capacity.

Mr Hadgkiss—I am not aware of that.

Senator MARSHALL—In those instances, your department does not engage consultants of any form to assist task force inspectors in carrying out their duties?

Mr Hadgkiss—To date, no. Not to my knowledge.

Senator MARSHALL—Would you know?

Mr Hadgkiss—I would know and, as I say, I am not familiar with it.

Senator MARSHALL—The answer is not no, not to your knowledge; the answer is no, isn’t it?

Mr Hadgkiss—To my knowledge, yes.

Senator MARSHALL—Can you advise me of the dates and times at which the task force officers attended the Gosnells Civic Centre construction site in metropolitan Perth?

Mr Hadgkiss—I would have to take that on notice. As at 12 February there have been nearly 1,800 site visits around Australia. That particular one I am not familiar with.

Senator MARSHALL—Is there anyone else here who might be?

Mr Hadgkiss—No.

Senator MARSHALL—Can you take on notice when that happened?

Mr Hadgkiss—In the case of Western Australia there have been 415.

Senator MARSHALL—No, that is not the question I asked. Can you take on notice and answer the question on what dates and times your officers attended the Gosnells Civic Centre construction site?

Mr Hadgkiss—Those are operational matters which I would be loath to impart.

Senator MARSHALL—So you will not?

Mr Hadgkiss—At this point in time, yes.

Senator MARSHALL—It is historic. I am not asking future surprise attacks. You have resources and you have a budget to spend those resources. Surely I am entitled to ask you the question and get a proper answer on how you are spending those resources.

Mr Hadgkiss—Indeed, but I would imagine it is an ongoing investigation. That is why I am loath to—

Senator MARSHALL—I am not going to ask you to give me preliminary results of your investigation, but I do intend to ask you: why did they go?

Mr Hadgkiss—I do not know.

Senator MARSHALL—Why did they go?

Mr Hadgkiss—Because they would be exercising their powers under the Workplace Relations Act.

Senator MARSHALL—Yes, all right. Are you saying then it was just a random visit? Were they asked to attend?

Mr Hadgkiss—Invariably they are asked to attend, but the task force has an approach of proactive visits on sites.

Senator MARSHALL—Can you confirm that during that visit they gave advice to a bricklayer that they were in fact an independent contractor?

Mr Hadgkiss—I have no knowledge of that.

Senator MARSHALL—Can you take that on notice and advise me?

Mr Hadgkiss—The interim building industry task force does not have contractors on its staff or contracted to work short term with the task force.

Senator MARSHALL—I did not ask whether you engaged an independent bricklaying contractor. I asked whether your officers gave advice to a bricklayer on the site that they were in fact an independent contractor.

Mr Hadgkiss—I would have to take that on notice.

Senator MARSHALL—Would your officers give such advice?

Mr Hadgkiss—I really do not know.

Senator MARSHALL—You should know, because in answer to questions on notice you have clearly stated it is not in your remit to give such advice nor make such investigations. Why are your officers—I put it to you that they are—giving that advice when you have clearly stated to this committee that that is not in your remit?

Mr Hadgkiss—I do not accept that assertion.

Senator MARSHALL—Which assertion? That you have given an answer to a question on notice?

Mr Hadgkiss—That my officers have given such advice.

Senator MARSHALL—You were unclear whether they would have or would not have. I thought you would have been able to advise me that they would not because it is their instructions not to. What instructions to the inspectors get in relation to giving advice about the status of employment of independent contractors?

Mr Hadgkiss—They have no instructions.

Senator MARSHALL—Then why do you give an answer to a question on notice that says—

Mr Hadgkiss—Can you quote me the number?

Senator MARSHALL—W222-04, page 207. The question before that one is relevant too. Senator Collins asked in writing:

Has the Taskforce discovered any cases of employees being wrongly described as contractors? If so, how many?

The answer is:

No, it is not part of the Taskforce's remit to investigate these matters, and information on these matters is not collected by the Taskforce.

If you go over the page there is another relevant question.

Dr Boxall—Can you confirm again the number of that question?

Senator MARSHALL—There are probably three questions in order: W221-04, W222-04 and W223-04 all go to the issue. The next one does too.

Dr Boxall—We now have those questions in front of us, if you would like to ask a question.

Senator MARSHALL—What instructions have you given task force inspectors about giving advice on whether people are independent contractors or not?

Mr Hadgkiss—I have not given such instructions.

Senator MARSHALL—Then how do you know they are not giving that advice?

Mr Hadgkiss—I do not know that they are. This is the first time I have heard it.

Senator MARSHALL—Then how could you be so certain in the answers?

Mr Hadgkiss—Because it is not within our remit—simple as that. We do not investigate—

Senator MARSHALL—Then how do the inspectors know what is in and out of your remit if you have not advised them accordingly?

Mr Hadgkiss—It is part of their joining instructions.

Senator MARSHALL—What joining instructions?

Mr Hadgkiss—And it is part of the task force charter.

Senator MARSHALL—So they do have instructions?

Mr Hadgkiss—Well, it is a charter.

Senator MARSHALL—Can you give me a copy of the charter?

Mr Hadgkiss—It is on the web site.

Senator MARSHALL—So, in the charter it will say you do not give advice on independent contractors?

Mr Hadgkiss—No, it points out what is within the remit but it does not state what is not in the remit.

Senator WONG—Mr Hadgkiss, when you say ‘the remit’, precisely what are you referring to?

Mr Hadgkiss—Our core business.

Senator WONG—Where is that identified?

Mr Hadgkiss—In the task force charter.

Senator WONG—So, are you saying the remit has the connotation of an instruction?

Mr Hadgkiss—No, not to me.

Senator WONG—You understand the remit, when you use that phrase in the answers to the questions on notice, to mean those matters which fall within the charter, which is on the web, and nothing more?

Mr Hadgkiss—The area of responsibility.

Senator WONG—As identified only in the charter?

Mr Hadgkiss—As in the agreement or the day-to-day activities in conjunction with the department.

Senator WONG—Hang on. Mr Hadgkiss, you have said tonight to Senator Marshall and in quite a number of questions on notice that this is not within your remit.

Mr Hadgkiss—Correct.

Senator WONG—The public is, through the budget allocation to the task force, paying for quite a lot of resources in the task force. I am asking clearly: where is your remit identified?

Mr Hadgkiss—In the charter.

Senator WONG—So if something is in the charter you say it is something you can do and if it is not within the charter you will not do it.

Mr Hadgkiss—Ordinarily, yes.

Senator WONG—What does that mean?

Mr Hadgkiss—There are a multitude of things that the task force is asked for on a daily basis. Our 1800 number alone has received some nearly 1,500 callers. People call about independent contractors and they are referred to the department.

Senator WONG—So your remit is what is in the charter, is that right?

Mr Hadgkiss—Correct.

Senator WONG—Can you direct me to the web site?

Mr Hadgkiss—www.buildingtaskforce.gov.au.

Senator WONG—Thank you.

Senator MARSHALL—So if your officers are giving advice on independent contract status would you advise them not to do that into the future?

Mr Hadgkiss—I am not aware that they are.

Senator MARSHALL—I said ‘if they are’.

Senator Abetz—Which makes it hypothetical. What you should be asking is: ‘Is it within the instructions to’—whatever your question is. Don’t get straight to it on the basis of hypothesis which is rejected by the witness.

Senator MARSHALL—I am not sure I am going to get a clear answer to that though.

Senator WONG—I have the charter in front of me. Under the heading ‘Our role’, it says:

The role of the Interim Building Industry Taskforce (“the Taskforce”) is to secure lawful conduct throughout the building and construction industry.

Under the heading ‘Our responsibilities’, it states:

The Taskforce has prime responsibility for the following matters in respect to the building and construction industry:

- alleged breaches of awards and agreements ...

If a person is at law an employee but is being worked and paid as an independent contractor, would you agree that that would constitute a breach of an award or an agreement?

Mr Hadgkiss—I am not sure.

Senator WONG—You do not know that?

Mr Hadgkiss—It is hypothetical.

Senator WONG—You can repeat Dr Boxall’s instructions all you like, Mr Hadgkiss, but you are the head of this task force. You have referred us to this charter as identifying your remit. I am asking you on the basis of that to explain to us what is within your remit. Is an alleged breach of an award where someone is underpaid or paid inconsistently with the award because they are incorrectly deemed a contractor within your remit?

Mr Hadgkiss—That was really already answered on notice last time.

Senator WONG—If it is a breach of an award, how is it not in your remit?

Mr Hadgkiss—We accept that and then it is referred to the department.

Senator WONG—So it is within your remit but you do not have to do anything about it?

Mr Hadgkiss—Ordinarily, if we take the matter on board it will be referred to the department. Sometimes the matter can be sorted out by the 1800 number operator.

Senator WONG—Is one of your performance indicators timeliness in bringing actions against breaches of federal awards and agreements and the Workplace Relations Act?

Mr Hadgkiss—Correct.

Senator WONG—So the tasks or the functions specified in that PI—that is, actions for breaches of federal awards and agreements—is within your remit?

Mr Hadgkiss—Correct.

Senator WONG—Have you taken any actions for breach of federal awards in relation to underpayments?

Mr Hadgkiss—No.

Senator WONG—Have you taken any action for breaches of award in relation to any condition of employment, non-provision of a condition of employment to an employee?

Mr Hadgkiss—I would have to take that on notice. We have some three matters completed before the courts and I think an additional nine matters before the courts at the moment.

Senator WONG—Do any of those matters before the courts relate to employee entitlements, whether it is through wages or other conditions of employment, that are not paid?

Mr Hadgkiss—I think that was answered last time.

Senator WONG—I am asking it again, Mr Hadgkiss.

Mr Hadgkiss—The answer has not changed.

Senator WONG—What was the answer last time?

Mr Hadgkiss—It is on the record, Senator.

Senator WONG—Perhaps you can refer me to it.

Mr Hadgkiss—W228-04.

Senator WONG—Here we go again. It is not part of the remit. I understand none of the cases that you currently have before the courts relate to any nonpayment of any employee entitlement. Is that right?

Mr Hadgkiss—That is my recollection.

Senator WONG—You say in this answer that it is not part of your remit to investigate instances of underpayments. Is that right?

Mr Hadgkiss—That is correct.

Senator WONG—According to the charter, which as I understand it is what you describe as the remit, you do have responsibility for any breaches of awards. Would you agree that underpayments constitute a breach of an award?

Mr Hadgkiss—As I said, those matters are referred to the department.

Senator WONG—Perhaps I can go back. You do, however, prosecute other breaches of awards, do you not?

Mr Hadgkiss—Most of it are breaches of the Workplace Relations Act, from my recollection.

Ms Bennett—The Office of Workplace Services in the department has the expertise and skills in this area. The underpayment of entitlements is something in which they have a longstanding expertise. The investigations into and dealings with those matters have remained in that area. If something comes to the task force's attention in the course of its investigations, it refers those matters to the Office of Workplace Services to bring in the people that have the skill to address those issues.

Senator WONG—I understand the answer. Mr Hadgkiss, how many underpayments have you referred?

Mr Hadgkiss—Information on these matters is not collected by the task force.

Senator WONG—I am very pleased someone passed you that note to read out, but it is not very accountable.

Dr Boxall—That is not a note, Senator Wong; it is the minister's answer.

Senator WONG—You accept I think that underpayments can be breaches of award. Do you accept that?

Mr Hadgkiss—If it is proven, yes.

Senator WONG—An alleged underpayment is an alleged breach of an award.

Mr Hadgkiss—Correct.

Senator WONG—So we agree on that. And that is within your remit.

Mr Hadgkiss—No, it is not.

Senator WONG—As I understand, the task force has prime responsibility for the following matters in respect of the building and construction industry: alleged breaches of awards and agreements. As I understand from what you are saying, that is in your charter.

Mr Hadgkiss—Yes.

Senator MARSHALL—So it is in your remit?

Mr Hadgkiss—Yes.

Senator MARSHALL—So the answer is yes now.

Senator WONG—As I understand from what you say: 'It is within our remit, but we do not act on it. We refer it to Workplace Services'?

Mr Hadgkiss—Underpayment of entitlements are invariably referred to the department or the state jurisdiction.

Senator WONG—How many have you referred?

Mr Hadgkiss—I do not have that information.

Senator WONG—You do not collect that?

Mr Hadgkiss—No.

Senator WONG—You do not consider it important?

Mr Hadgkiss—It is so minor—

Senator WONG—It is so minor?

Dr Boxall—It is not a question of whether it is important. The issue is that they are not collecting this information. They refer it to the OWS in the department or to the relevant authority in the state jurisdiction. That information is not available, and that is the minister's answer to question W228-04. Nothing has changed since the minister provided that answer.

Senator MARSHALL—That is clearly not the case, because Mr Hadgkiss's evidence is that breaches of awards are within his remit. He said that a moment ago. The minister's answer says that it is not part of the task force remit.

Dr Boxall—The minister's answer is consistent with what Mr Hadgkiss has been saying. The minister's answer is current. It was current when it was last given and it remains current. What Mr Hadgkiss is saying is that, in the event that there are instances of underpayment of entitlements in the building and construction industry, they are referred.

Senator MARSHALL—That is not what is being said.

Dr Boxall—That is what is being said.

CHAIR—Order! Could we have one person at a time, Senator.

Dr Boxall—That is what the minister's answer says.

Senator Abetz—I think there is a difference between referral and an investigation. If a complaint is made, the evidence is that it is referred. That is not inconsistent with the minister saying that it is not investigated by the task force.

Senator WONG—Mr Hadgkiss, are there instructions to your inspectors to refer complaints regarding alleged underpayment of wages or non-provision of a condition of employment to Workplace Services?

Mr Hadgkiss—These matters are ordinarily handled by the 1800 number operator.

Senator WONG—That was not my question.

Mr Hadgkiss—I have some figures here. From the 1,374 calls we have received, 50 pertained to queries about workers' entitlements, including such matters as underpayment of wages, sick leave, redundancies, inclement weather and picnic day entitlements. That number represents 3.6 per cent of all calls received by the task force. Of these 50 calls, the task force provided advice directly to the customer on 28 occasions and referred the remaining 22 to the relevant agency. A breakdown of that figure shows that 21 came from employers, 17 came from members of the community not directly working in the industry—for instance, lawyers—11 came from the employees, one from an employer association and one from the trade union movement.

Senator WONG—When you said before, 'It is so minor' to what were you referring?

Mr Hadgkiss—The figures: 50 out of 1,374 calls pertained to entitlements.

Senator WONG—You indicated that 22 of those calls were dealt with by the task force. Does that mean that some complaints regarding nonpayment are actually dealt with internally?

Mr Hadgkiss—No, I said that we provided advice directly to the customer on 28 occasions.

Senator WONG—So you do provide advice regarding breaches of awards.

Mr Hadgkiss—Yes, for things like picnic day entitlements, inclement weather, redundancies and sick leave.

Senator WONG—Senator Marshall, do you want to continue?

Senator MARSHALL—I am happy to continue with this because I do not think we have got very satisfactory responses at all. However, I asked a number of questions earlier and it is unclear whether you agreed to take them on notice. If it is acceptable to everybody, I propose to put those questions in writing and submit them to the secretariat for answers on notice. I hope that you will in fact answer those questions.

Dr Boxall—The minister will answer them.

Senator Abetz—I assure you the minister will give them the due consideration that they deserve.

Senator MARSHALL—Maybe I ought to pursue them now. I do not know, because I cannot see why I cannot get a response to these matters.

Senator Abetz—You have; you are just not happy with the response.

Senator MARSHALL—No, I have not. The answer was that they were not going to answer them. I will put them in writing and we can pursue it further.

Senator WONG—Given that some underpayments or alleged breaches of awards in relation to conditions of employment are investigated by the task force—

Senator Abetz—No, they are not.

Senator WONG—I am sorry; I thought Mr Hadgkiss's evidence was 28 calls to the 1800 number were the subject of advice to the customer on these issues.

Mr Hadgkiss—Yes, but that may be: 'The phone number for the relevant jurisdiction is ...' It could be for the state IR department.

Senator WONG—Under the act, aren't all the members of the task force authorised inspectors?

Mr Hadgkiss—No, not all members.

Senator WONG—Do you consider those that are to have a statutory responsibility to at least report breaches of the act including awards and agreements?

Mr Hadgkiss—If they are brought to their attention they are recorded.

Senator WONG—So you record alleged breaches brought to the attention of task force members.

Mr Hadgkiss—Ordinarily through the 1800 number.

Senator WONG—Only through the 1800 number.

Mr Hadgkiss—Ordinarily through the 1800 number.

Senator WONG—What about on a one-to-one basis?

Mr Hadgkiss—If it is a matter that the task force could assist with, it would be recorded and the caller would be got back to. It may require the investigator or the operator to discuss it with a lawyer or the department and an answer would be provided in due course.

Senator WONG—In answer to a question on notice, you also indicated that not only was it not within your remit to investigate underpayment of wages but also it was not within your remit to investigate the classification incorrectly of any employees as independent contractors. Is that your understanding of your role, Mr Hadgkiss?

Dr Boxall—What is the number of the question, Senator Wong?

Senator WONG—W222-04. Do you have that in front of you, Mr Hadgkiss?

Mr Hadgkiss—I do, Senator.

Senator WONG—So we have established that you do not consider underpayments to be part of your remit.

Mr Hadgkiss—To investigate them, no.

Senator WONG—You do not consider investigation of persons being worked as contractors when they in fact are employees to be within your remit?

Mr Hadgkiss—As it stands on that, I do not disagree with the answer one bit.

Senator WONG—So it is not up to you to investigate a person who is being worked as a contractor who may in fact be an employee.

Mr Hadgkiss—It would not be investigated by the task force. It would be referred to where the expertise lies within the department or state jurisdiction.

Senator WONG—What about phoenix companies?

Mr Hadgkiss—They are investigated and then referred to the appropriate agency which, invariably, is the Australian Securities Investment Commission and/or the Australian Taxation Office.

Senator WONG—How many phoenix companies have been investigated?

Mr Hadgkiss—To my knowledge, at least two that have been reported to us.

Senator WONG—What about safety concerns?

Mr Hadgkiss—Again, that is not within the remit of the task force. Abuse of safety is a common occurrence.

Senator WONG—Abuse of safety?

Mr Hadgkiss—Yes, misuse of OH&S.

Senator WONG—What does that mean?

Mr Hadgkiss—That means where people allege safety issues which cause industrial disputation and the task force is called to investigate, and those have been matters placed before the court.

Senator WONG—So you investigate when you think employees or their organisations are making unreasonable allegations in relation to breaches of safety?

Mr Hadgkiss—That has been the case, yes.

Senator WONG—Do you investigate if there have in fact been breaches of any safety legislation or requirements?

Mr Hadgkiss—That would be referred to the relevant state agency.

Senator WONG—Who has made that decision, Mr Hadgkiss?

Mr Hadgkiss—That is within the law.

Senator WONG—I understand that. Who has made the decision that the task force will investigate where they think safety is being used inappropriately, but the task force will not investigate breaches of any safety legislation. Whose decision is that?

Mr Hadgkiss—Each case is on its merits, Senator.

Senator WONG—You have just said to me that a breach of occupational health and safety legislation, in whatever form, is not something the task force investigates. Do you agree with that?

Mr Hadgkiss—On occasions we are called to a dispute and, if in the minds of the investigators it were a genuine safety issue, the appropriate agency would be immediately notified.

Senator WONG—You do not investigate it beyond that point?

Mr Hadgkiss—We would await the outcome of the investigation.

Senator WONG—But if your inspectors determine it is not genuine, then it is the job of the task force to investigate it.

Mr Hadgkiss—That would depend again on the circumstances.

Senator WONG—That is within your remit?

Mr Hadgkiss—If it were a breach of the act, yes.

Senator WONG—So who has decided that line? Who has decided—

Mr Hadgkiss—Because—

Senator WONG—Let me finish the question, Mr Hadgkiss. Who has decided that with safety breaches which are genuine in the minds of the inspectors they do not have to do anything more other than refer them to state bodies, and safety concerns which are not genuine are the subject of investigation by the task force?

Mr Hadgkiss—Firstly, it is within the charter.

Senator WONG—That is not correct—

Mr Hadgkiss—Secondly—if I may finish, Senator?

CHAIR—Order! Can we have one person at a time. Let the officer finish.

Mr Hadgkiss—Firstly, it is within the charter. Secondly, if it is a genuine OH&S issue, or safety issue, it is within the legislative framework of the states. If it is a misuse of OH&S or safety it comes within the Workplace Relations Act, a Commonwealth piece of legislation, and hence the task force would get involved.

Senator WONG—Where in the charter is this distinction drawn? You said firstly it is within the charter. Where is it?

Mr Hadgkiss—Assessing matters and, if appropriate, referring matters to other agencies, either Commonwealth or state and territory bodies.

Senator WONG—Can I be clear, Mr Hadgkiss. I am not necessarily being critical of the fact that you refer; I am asking who made the decision that this sort of complaint gets referred to other bodies but that sort of complaint gets investigated by the task force. That is all I am asking.

Mr Hadgkiss—It would be the decision of the investigator at the scene.

Senator WONG—No. You are misunderstanding me. I am not asking about—

Mr Hadgkiss—The parliament made that decision—or parliaments of the states and territories.

Senator WONG—No.

Senator Abetz—The federal parliament legislated, under the Workplace Relations Act, in relation to—for want of a better term—false claims under OH&S. There was a gaping hole in the state legislative framework in relation to what people could do in the event of such false claims being made. That is why it is in the Workplace Relations Act. If there is a breach of occupational health and safety standards there are appropriate state authorities empowered under state legislation to pursue those matters, but there are not state authorities or state legislation to deal with those false claims. That is why it was put into the Workplace Relations Act and that is why it is within the remit of the task force to deal with those issues. There is no problem there at all.

Senator WONG—Mr Hadgkiss, do you understand it to be a policy decision that you have to follow that occupational health and safety claims which the inspectors regard as genuine not be investigated by the task force and be referred to relevant state bodies and only claims which your officers assess as not being genuine are investigated?

Dr Boxall—That is the department's position.

Senator WONG—That is the department's position?

Dr Boxall—Yes.

Senator WONG—Can someone point me to where in the charter that distinction is made?

Dr Boxall—That distinction is not made in the charter, for the reasons that the minister has just outlined—because the state government jurisdictions, or the state government acts, cover occupational health and safety where there is a genuine complaint about an OH&S issue. That is dealt with by the state and, if the task force is called in and finds that situation, they refer it

to the state. If not, and it looks as though the occupational health and safety legislation is being misused and is hence a breach of the Workplace Relations Act, then the interim building task force investigates it. That is the position.

Senator WONG—I think we have dealt with independent contracting. Just so I understand your position, Mr Hadgkiss: it is not within your remit to investigate sham independent subcontractors.

Mr Hadgkiss—I am sorry, ‘sham’?

Senator WONG—Independent contracting—in other words, people who are being worked and paid as independent contractors who at law are employees.

Mr Hadgkiss—If they have breached the Workplace Relations Act, yes.

Senator WONG—Who are ‘they’?

Mr Hadgkiss—These people that you talk about.

Senator WONG—What if their employer has breached it?

Mr Hadgkiss—Likewise—

Senator WONG—So you say that is within your area of investigation.

Mr Hadgkiss—There are a number of employers before the courts and a number of employers have already been dealt with by the courts through actions by the task force.

Senator WONG—No. Perhaps we are misunderstanding each other. Do I understand that it is not part of your remit to investigate a breach of an award where someone is being worked as an independent contractor when in fact at law they are an employee?

Mr Hadgkiss—I really do not understand the question; I am sorry.

Senator WONG—You know that at law there is a difference between independent contractors and employees.

Mr Hadgkiss—Yes.

Senator WONG—And do you know that it is certainly the case—I think it is well documented—that in various industries there are people who are called independent contractors, who are worked and paid as such, but in fact at law, if the matter is litigated, they are employees?

Mr Hadgkiss—Correct.

Senator WONG—Is it within your remit to investigate those matters?

Mr Hadgkiss—Those matters were not being brought to the task force’s attention.

Senator WONG—Are they within your remit?

Mr Hadgkiss—It would be dealt with on a case by case basis. As has already been pointed out on notice, ordinarily these matters are not within our remit; they are referred to the department or to the relevant state jurisdiction.

Senator WONG—Ordinarily.

Mr Hadgkiss—I am not aware of any matter that the task force has investigated along those lines or, indeed, any query complaint that has been brought to the task force's attention.

Senator WONG—What about illegal migrant workers?

Mr Hadgkiss—The task force has worked closely with the Department of Immigration and Multicultural and Indigenous Affairs, the Australian Taxation Office and Centrelink on that issue—and, indeed, with the CFMEU in New South Wales.

Senator WONG—So are you targeting illegal migrant workers in this sector?

Mr Hadgkiss—Again, if it were within the Workplace Relations Act, yes.

Senator WONG—What does that mean?

Mr Hadgkiss—The Workplace Relations Act is our remit, not migration offences—that is the remit of DIMIA.

Senator WONG—So it is not something you need to do, to worry about illegal workers in this industry.

Mr Hadgkiss—I have said we do, Senator. We work closely with the departments I have just nominated.

Senator WONG—What about tax avoidance—cash in hand payments, underpayment of workers compensation premiums and those sorts of things?

Mr Hadgkiss—Again, the task force is working closely with the Taxation Office and has been invited to join the Taxation Office in a working group with employer associations and employee associations. The inaugural meeting is next month.

Senator WONG—So your first meeting is next month.

Mr Hadgkiss—We were invited to the preliminary meeting, but now a working group has been set up. A number of matters have been referred to the Taxation Office along the lines that you suggest.

Senator WONG—Can I just go back to the migrant workers, where you said, 'It is not our role; it is DIMIA's.' Doesn't your charter require you to investigate and refer for appropriate prosecution breaches of Commonwealth industrial, criminal and civil laws on building and construction sites?

Mr Hadgkiss—Yes.

Senator WONG—That would include illegal migrant workers.

Mr Hadgkiss—Where the powers will permit us but, again, the powers we are talking about would reside within the department of immigration, and we work closely together.

Senator WONG—Have you investigated any cases of tax avoidance in the industry, such as cash in hand payments?

Mr Hadgkiss—Matters have been referred to the Taxation Office, yes.

Senator WONG—I am sorry?

Mr Hadgkiss—We have referred several matters to the Commissioner of Taxation where there appear to be breaches of the Income Tax Assessment Act.

Senator WONG—And have you investigated any cases of underpayment or nonpayment of workers compensation premiums?

Mr Hadgkiss—I would have to take that on notice.

Senator WONG—You do not have any special unit?

Mr Hadgkiss—There certainly are matters that come to mind where we have made preliminary investigations and, again, reported those to the Taxation Office.

Senator WONG—So how many cases of underpayment or nonpayment of workers compensation premiums have you investigated?

Mr Hadgkiss—I will take that on notice.

Senator WONG—Perhaps you can indicate to me on notice, then, how many cases you have investigated of phoenix companies, sham independent subcontracting, abuse of illegal migrant workers, underpayment or nonpayment of workers compensation premiums and cash in hand payments.

Mr Hadgkiss—Yes, but I must point out that these were only preliminary investigations, because we do not have the powers to investigate these. Our powers are confined to the Workplace Relations Act. The proper agency for cases such as phoenix companies is the Australian Securities and Investments Commission.

Senator WONG—But you are allowed to assess and, if appropriate, refer matters, so that is what I am asking: how many of the matters that fall into those categories have you assessed and how many have been referred?

Mr Hadgkiss—Yes.

Senator WONG—How many people are employed by the task force currently?

Mr Hadgkiss—As of 16 February there were 46 people.

Senator WONG—Have there been any changes to the organisation of work—that is, the number of officers employed in each state?

Mr Hadgkiss—It changes on a daily basis.

Senator WONG—You have people flying interstate on a daily basis?

Mr Hadgkiss—There is a task force arrangement, yes. That is why we are called a task force. We have the ability to move people.

Senator Abetz—It is a bit like the CFMEU.

Senator MARSHALL—I do not think it is anything like that, Minister.

Senator Abetz—Not at all.

Senator WONG—They get a lot less money.

Senator Abetz—They do not engage in the thuggery.

Senator WONG—What was that, Minister?

Senator Abetz—The task force does not engage in the thuggery of the CFMEU's flying squads that visit certain states.

Senator MARSHALL—That is just the most stupid thing I have heard tonight, Minister. I know it is getting late, but you ought to sit back and take a deep breath.

Senator Abetz—It happens in Tasmania, where people get flown in from South Australia on a regular basis and try to throw their weight around on Tasmanian building sites. Complaints have been made to me by Tasmanian workers who take great exception to so-called union officials from interstate trying to come onto Tasmanian work sites and disrupt them. I can tell you that it happens and it is a matter that has been of great consternation to Tasmanian workers, builders and contractors.

Senator MARSHALL—What are the specific allegations you are making, or is it just a generalisation?

Senator Abetz—I make no generalisations. I have made that allegation publicly a number of times in Tasmania. Interestingly enough, on the last occasion the CFMEU did not want to be interviewed on camera about the allegation.

Senator MARSHALL—I am not surprised that they would not give you the dignity of that with such stupid allegations.

Senator Abetz—They did not even want to deny the allegations. They could not, because so many Tasmanian workers would have come out and said that they were liars—

Senator MARSHALL—That is an enormously long bow to draw, Minister.

Senator Abetz—You should not have asked that follow-up question. It was one question too many and it unravelled for you.

CHAIR—Anyway, let us return to the estimates questions.

Senator WONG—Are all members of the task force engaged under the Public Service Act and employed by the Commonwealth within your department?

Mr Hadgkiss—That is correct.

Dr Boxall—They are actually employed by the Commonwealth in the Department of Employment and Workplace Relations.

Senator WONG—Mr Hadgkiss, I think you said before that some of them were inspectors and some of them were authorised officers. Is that correct?

Mr Hadgkiss—That is correct.

Senator WONG—Remind me of how many are authorised officers and/or inspectors under the act.

Mr Hadgkiss—Twenty-three are active. There are others, including me, but obviously I do not exercise my powers.

Senator WONG—Do any of the members of the task force who do hold these positions concurrently exercise their powers under any Commonwealth legislation in the course of their duties with the task force?

Mr Hadgkiss—Not to my knowledge.

Senator WONG—Do you have any instructions to that effect?

Mr Hadgkiss—I do not think we need them. I am not aware of such an instance taking place.

Senator WONG—Do you have any protocols relating to the use of statutory powers that they may have by virtue of their inspector appointment or their authorised officer status?

Mr Hadgkiss—Yes. I authorise them and I sign certificates to the effect that they are inspectors and/or authorised officers under the Workplace Relations Act.

Senator WONG—I understand that.

Mr Hadgkiss—I thought the question was: do they exercise other powers such as police, immigration or tax powers? The answer is no, even though we have people seconded from other agencies.

Senator WONG—That is a bit inconsistent. When you say ‘seconded’, do you mean that they still employed by their home department or are they employed by DEWR?

Mr Hadgkiss—They are employed by DEWR.

Senator WONG—Have any AFP, National Crime Authority, ATO or other federal agency staff been seconded to the task force?

Mr Hadgkiss—No, except me.

Senator WONG—From what agencies are the seconded people that you described earlier?

Mr Hadgkiss—They are from the Office of the Employment Advocate.

Senator WONG—How many of those are there?

Mr Hadgkiss—At the moment, six.

Senator WONG—Are they the only seconded officers?

Mr Hadgkiss—Other than me, yes. There was an officer from the Victoria Police, who has since returned.

Senator WONG—What is your budget for the current financial year?

Mr Hadgkiss—It is \$8.9 million.

Senator WONG—What is the projected budget for next year?

Dr Boxall—They do not have funding for next year yet. It is an interim building industry task force, and it is only funded up to the end of this financial year. It will be settled in the budget context.

Senator WONG—What are you going to do after June, Mr Hadgkiss?

Dr Boxall—He cannot answer that. That is a hypothetical question.

Senator Abetz—And a personal question too.

Senator WONG—The budget is currently \$8.9 million. Has the department commenced any costings for the next stage of the task force or for whatever its successor organisation will be?

Dr Boxall—The department will deal with these matters with the minister in the budget context.

Senator WONG—I think on the last occasion Senator Collins asked about an investigation into an incident in Western Australia in March 2003 in which it was alleged that officers of the task force refused to identify themselves. I refer you to question on notice W218-04. Was the internal investigation conducted by you?

Mr Hadgkiss—No.

Senator WONG—Was it conducted by a person within the task force?

Mr Hadgkiss—Yes, the deputy director.

Senator WONG—When did the investigation conclude?

Mr Hadgkiss—With the writing of a letter of reply to Mr Kevin Reynolds. We heard nothing more from Mr Reynolds.

Senator WONG—Do you have a police background?

Mr Hadgkiss—Yes.

Senator Abetz—In the nicest way!

Senator WONG—As a member of the force. There are other members—and I think we have discussed this previously—who have law enforcement backgrounds?

Mr Hadgkiss—Correct.

Senator WONG—Have these persons been instructed not to identify themselves as anything other than task force officials?

Mr Hadgkiss—They are instructed to identify themselves as inspectors under the Workplace Relations Act or as authorised officers under the Workplace Relations Act, and they would not identify themselves as anything other than that or the names they are known by in the building community. They are known as police; they are known as building police on building sites.

Senator WONG—Does the task force have a policy in relation to either physical or electronic surveillance?

Mr Hadgkiss—Yes.

Senator WONG—What is that policy?

Mr Hadgkiss—We are not permitted to use either of those covert methods. We are not legislatively empowered to do that. We do not have the power to use them or to receive transcripts or other product from other agencies.

Senator WONG—I do not want to re-traverse the areas we have covered but, in relation to those categories of alleged award breaches or breaches of workers compensation legislation or tax legislation, do you have any records or are you aware of how many prosecutions, if any, have been initiated in relation to those areas?

Mr Hadgkiss—Yes.

Senator WONG—You do?

Mr Hadgkiss—We have some nine matters currently before the court, and three have been completed before the court.

Senator WONG—None of those involve prosecutions in relation to award breaches such as underpayments of wages or nonpayment of conditions.

Mr Hadgkiss—Correct.

Senator WONG—In relation to the other issues I have referred to before—that is, underpayment of workers entitlements, sham independent subcontracting, cash in hand payments, underpayment of workers compensation premiums—have any of those to your knowledge resulted in any prosecutions?

Mr Hadgkiss—Cash in hand payments are being investigated by the task force, yes.

Senator WONG—My question is prosecutions.

Mr Hadgkiss—Prosecutions, no, Senator.

Senator WONG—I am happy for you to take it on notice, but I am asking if any prosecutions have been initiated in any of the categories that I have outlined.

Mr Hadgkiss—No, Senator.

Senator WONG—Would you be aware? Your evidence—

Mr Hadgkiss—We do not have any such prosecutions.

Senator WONG—Mr Hadgkiss, can I finish? Your evidence is that matters are referred, for example, in relation to underpayments, to Workplace Services.

Mr Hadgkiss—Correct, or state jurisdictions.

Senator WONG—Do you know whether any of them have resulted in any prosecutions?

Mr Hadgkiss—No, once they leave the task force—

Senator WONG—You do not keep records.

Mr Hadgkiss—We keep a record that they have gone to another agency, but we would not get feedback invariably because of privacy legislation.

Senator WONG—So you do keep a record of all your referrals.

Mr Hadgkiss—Yes.

Senator WONG—I think my question that you took on notice before covers it. I would like the numbers of referrals in the various areas I have outlined.

Mr Hadgkiss—We do not ordinarily keep that information—

Senator WONG—You just said you did.

Mr Hadgkiss—It means we would have to physically go through 1,400 records we have received and find out which one had been referred.

Senator WONG—I am sorry. I thought you took on notice that issue before.

Mr Hadgkiss—My answer was: we do not keep that information on hand, Senator.

Senator WONG—In relation to underpayment of workers entitlements, as I understand it, are you able to provide me on notice with the number of referrals of such cases to Workplace Services?

Mr Hadgkiss—I have already said I do not keep those records, Senator.

Senator WONG—Regarding phoenix companies, have there been any referrals?

Mr Hadgkiss—If they have been referred to ASIC or the tax office, I would be able to give you those numbers, yes.

Senator WONG—You can you give me those. Regarding independent subcontracting, are there any records of referral to Workplace Services?

Mr Hadgkiss—Those records are not kept.

Senator WONG—Regarding the illegal migrant workers issue, have any prosecutions been initiated in relation to those?

Mr Hadgkiss—Not by the task force, no. We do not have those powers.

Senator WONG—Have you referred investigation any of those matters to DIMIA? If you wish to take it on notice—

Mr Hadgkiss—I will have to take that on notice.

Senator WONG—Regarding underpayment or nonpayment of workers compensation premiums, have you investigated any of those matters?

Mr Hadgkiss—If they were, they would be preliminary investigations, as I pointed out before, Senator.

Senator WONG—Have any of those resulted in prosecution?

Mr Hadgkiss—That is up to the agencies concerned.

Senator WONG—Have your investigations resulted in any referral to those agencies?

Mr Hadgkiss—That I am not aware of, Senator.

Senator WONG—Perhaps you could take that on notice, and similarly with cash in hand payments.

Mr Hadgkiss—Yes.

Senator WONG—Part of your remit in your charter is to refer matters to the ATO after assessment. Have you done that?

Mr Hadgkiss—I think I have already answered that, Senator.

Senator WONG—Remind me what the answer was.

Mr Hadgkiss—Yes.

Senator WONG—So you have done that. How many matters?

Mr Hadgkiss—I said I would take that on notice, Senator.

Senator WONG—Are you part of the ATO's building and construction industry forum?

Mr Hadgkiss—That is why I have answered yes, Senator.

Senator WONG—That is the one that is next month.

Mr Hadgkiss—Its inaugural meeting, yes, although the latest was that there was some objection by a certain party to having the task force there.

Senator WONG—Are you aware that the incorrect classification of someone as an independent contractor who is in fact an employee will also often involve tax evasion?

Mr Hadgkiss—Yes.

Senator WONG—Do you investigate those matters?

Mr Hadgkiss—It is not within our remit.

Senator WONG—Within the charter as assessing matters and referring them to the ATO.

Mr Hadgkiss—If we became aware of them, we would refer them to the ATO.

Senator WONG—What is the instruction to your officers regarding this issue? What are your instructions regarding independent contractors?

Mr Hadgkiss—There are no instructions.

Senator WONG—So, if someone approaches them and says, ‘I’m not being paid,’ or, if they become aware through looking at the books that everybody has been paid as an independent contractor, what are their instructions on how to deal with that?

Mr Hadgkiss—It would be referred to the appropriate agency. If there is a breach of the law, they would take note. If they had the powers, they would seize the necessary documentation and they would carry out the investigation and report it to the relevant agency.

Senator WONG—Does the task force have a policy of zero tolerance?

Mr Hadgkiss—Yes.

Senator WONG—In relation to what?

Mr Hadgkiss—To breaches of the law, where it can be proved and it is in the public interest. If sufficient evidence exists, it is in the public interest.

Senator WONG—Does this policy of zero tolerance apply to the underpayment of workers?

Mr Hadgkiss—As I said, it is not within our remit.

Senator WONG—Your remit includes alleged breaches of awards. Underpayments are usually an alleged breach of an award.

Mr Hadgkiss—Yes but, as I have already explained, those matters are then brought to the relevant—

Senator Abetz—We have been through this. They do not prosecute them; they refer them.

Senator WONG—What about in relation to the exploitation of migrant workers? Do you have a zero tolerance policy there?

Mr Hadgkiss—Again, they are brought to the attention of the immigration department. The zero tolerance or otherwise of that department is beyond the task force’s responsibility.

Senator WONG—On 22 October, two workers were killed and three injured when form work collapsed on a water tower project in Lake Cargelligo. The contract involved grossly underpaid workers compensation premiums and was exploiting immigrant workers. One South African worker received only \$100 for three months work. Less than a week after the

accident, despite his injuries, he was put on a plane back to South Africa. Are you aware of this case?

Mr Hadgkiss—I am.

Senator WONG—Has the task force investigated this case?

Mr Hadgkiss—Yes.

Senator WONG—What have you done as a result of the investigations?

Mr Hadgkiss—It was already being fully investigated by the relevant state agencies, the department of immigration and the tax office. We liaised with those departments to see whether there was anything the task force could do under the Workplace Relations Act. There was not, and we continue to liaise with those departments.

Senator WONG—Were any prosecutions commenced by the department, to your knowledge?

Mr Hadgkiss—There were no breaches of the Workplace Relations Act. These were state awards.

Senator WONG—So you referred the matter to the state department?

Senator Abetz—No. The evidence is that they were already under investigation.

Senator WONG—Are you familiar with a company called Southern Air Conditioning Pty Ltd?

Mr Hadgkiss—Yes.

Senator WONG—The evidence that was given to a Senate committee by Mr Cameron on 3 February 2004.

Senator Abetz—Doug Cameron?

Senator WONG—Yes, it is Doug Cameron. There was obviously a federal logging process going, in which employees were logged. A company called Southern Air Conditioning Pty Ltd was logged as part of an industrial campaign. The company, unbeknown to the union, had gone into liquidation and had then been reconstituted as another corporate entity, Southern Air Conditioning (Canberra) Pty Ltd. His evidence is that, as a result, there was a technical mistake on a form—a notice of intention to take industrial action—in that the form was defective because the company was incorrectly named.

Mr Hadgkiss—Yes.

Senator WONG—You are aware of that. Is it the case that you are initiating legal proceedings in respect of this matter?

Mr Hadgkiss—The matter to which Mr Cameron referred was that on 23 January, 11 days prior to Mr Cameron providing evidence to the Senate inquiry, legal representatives for the AMWU appeared before the New South Wales Chief Industrial Magistrate, Mr George Miller. On that occasion the legal representatives for the AMWU formally admitted to breaching section 170NC of the act and to the facts put forward to the task force. Those facts were that the AMWU took unlawful industrial action to coerce a contractor to sign a new enterprise bargaining agreement at the Shoalhaven District Hospital building site. The subcontractor in

question lost \$45,000 as a consequence. Penalty for the AMWU will be handed down shortly by His Worship. Contrary to Mr Cameron's assertions that the task force's actions against his union were a technical mistake, I can assure you the task force would not incur the time and expense in pursuing any matter where the spirit of the law had not been observed to all intents and purposes.

Senator WONG—What I want to clarify, though, is wasn't the breach due to the incorrect naming of the company?

Mr Hadgkiss—No. At no time did either witness or the AMWU's counsel claim that the required notice was given to the right people or the right company but with the wrong company name in it, as suggested by Mr Cameron. Nor did witnesses for the AMWU testify to any confusion at the relevant time with a prior company.

Senator WONG—I understand what you are saying, but the actual breach, as I understand it—please correct me if I am wrong—was that the notice was defective, therefore any action then taken was not—

Mr Hadgkiss—No, the breach was—

Senator WONG—I have not finished the question.

Mr Hadgkiss—for an unlawful—

Senator WONG—Mr Hadgkiss, can I finish the question?

Mr Hadgkiss—coercion.

CHAIR—Order! Could we have the end of the question.

Senator WONG—As I understand it, the discussion between you and Mr Cameron to which I am referring related to the defective notice, which was defective because of the change in the company's status. Did you launch legal proceedings on the basis of the defective notice?

Mr Hadgkiss—No.

Senator WONG—Are you saying it was not relevant at all?

Mr Hadgkiss—An industrial officer for the AMWU gave evidence. He was aware that Southern Air Conditioning had gone into liquidation. He was also very much aware of the existence of Southern Air Conditioning (Canberra) Pty Ltd, although he persisted in referring to it as Southern Air Conditioning (ACT) Pty Ltd. He was so aware of it that in September 2001 he negotiated a new certified agreement with Southern Air Conditioning (Canberra) Pty Ltd, which was certified—

Senator WONG—Mr Hadgkiss, this is not the question I asked.

CHAIR—Order! Senator.

Mr Hadgkiss—on 15 October 2001 by Commissioner Lawson. In December 2002 the same AMWU officer was asked by the general manager of Southern Air to send him a copy of the new log of claims. This AMWU officer did so under cover of a letter correctly naming the company and correctly addressed. In cross-examination before the proceedings I have mentioned where the task force took action, this officer acknowledged that he did not provide

the address or company name to the research area of the AMWU, even though after Christmas 2002 he knew the address was wrong. He said he presumed the necessary paperwork had been done.

Senator MARSHALL—So it was a technical breach.

Mr Hadgkiss—It was not a technical breach.

Senator MARSHALL—It was the wrong address.

Mr Hadgkiss—The matters before the court are a serious, unlawful coercion against a subcontractor. They have nothing to do with a technical mistake.

Senator WONG—Mr Hadgkiss, I am pleased you had the opportunity to read out that script, but what I am actually asking is not about the case itself. What I am asking is: did you initiate legal proceedings based on the notice being defective?

Mr Hadgkiss—No, it was based on unlawful protective action taken by the AMWU against a subcontractor who lost \$45,000 as a consequence.

Senator WONG—Yes, you keep saying that.

Senator Abetz—It is very relevant.

Senator WONG—Just as he keeps saying that the underpayment of wages is not within his remit.

Senator Abetz—That is also very relevant.

Senator WONG—Mr Hadgkiss, let me clarify this again. Are you saying that the defective notice did not form a basis of the legal proceedings taken?

Mr Hadgkiss—The defective notice was not relevant.

Senator WONG—That is fine, as long as I understand that is your position.

Mr Hadgkiss—Neither did the magistrate consider it relevant.

Senator WONG—Mr Hadgkiss, I am not having this argument with you. You are arguing at cross-purposes. I am trying to clarify something. Did you initiate legal proceedings on the basis of a defective notice or not?

Mr Hadgkiss—No, for the third time.

Senator Abetz—Don't believe Doug Cameron.

Senator WONG—The policy of zero tolerance, as I understand it, relates to alleged breaches by unions of the Workplace Relations Act.

Mr Hadgkiss—By everybody.

Senator WONG—But does not relate to alleged breaches by employers of underpayments of wages, tax evasion and workers compensation.

Mr Hadgkiss—The department takes care of that.

Senator WONG—You do not have a zero tolerance policy there?

Mr Hadgkiss—Not on that. It is not within our remit.

Dr Boxall—It is not within his remit to have a zero tolerance policy.

Senator Abetz—It is nearly 11 o'clock.

Senator WONG—We can come back tomorrow, if that is what you want.

Senator Abetz—You do not want to, because you are booked on the first flight. We know that much.

Senator WONG—I probably have about five minutes, and he has about 15.

CHAIR—I think we had better adjourn, because we would be going 20 minutes past. Could you put it on notice?

Senator WONG—No.

Senator Abetz—Gavin, can you put yours on notice?

Senator MARSHALL—No, I do not think so, Minister.

Senator WONG—Mr Hadgkiss, have you issued any instructions to your staff to focus particularly on union activities in the construction industry?

Mr Hadgkiss—To focus on it?

Senator WONG—Yes.

Mr Hadgkiss—To focus, as in only focus on union activities?

Senator WONG—No, to focus on union activities within the construction industry.

Mr Hadgkiss—No.

Senator Abetz—Whilst this discussion is taking place, I understand Mr Symon has a matter.

Mr Symon—In answer to a question from Senator Campbell this afternoon, he asked me about voluntary redundancies within the department. The complete answer is that within the national office there were 12 voluntary redundancies. Within the states there were nine, including five from Tasmania.

CHAIR—Are there any further questions?

Senator Abetz—Putting them on notice? Thank you, you are very kind.

CHAIR—That concludes consideration of the estimates for Employment and Workplace Relations. The committee will convene at 9 a.m. tomorrow to conclude consideration of estimates for Education, Science and Training.

Committee adjourned at 11.05 p.m.