



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION  
LEGISLATION COMMITTEE

ESTIMATES

**(Additional Estimates)**

THURSDAY, 16 FEBRUARY 2006

CANBERRA

BY AUTHORITY OF THE SENATE



## **INTERNET**

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:  
**<http://parlinfoweb.aph.gov.au>**



---

**SENATE**  
**EMPLOYMENT, WORKPLACE RELATIONS,**  
**AND EDUCATION LEGISLATION COMMITTEE**  
**Thursday, 16 February 2006**

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

**Senators in attendance:** Senators Crossin, Eggleston, Chris Evans, Johnston, Ian Macdonald, McEwen, Marshall, Patterson, Siewert, Stephens, Troeth, Webber and Wong

**Committee met at 9.03 am**

**EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

**In Attendance**

Senator Abetz, Minister for Fisheries, Forestry and Conservation

**Department of Employment and Workplace Relations**

**Portfolio overview and major corporate issues**

Dr Peter Boxall, Secretary

Mr Graham Carters, Deputy Secretary, Workforce Participation

Ms Malisa Golightly, Deputy Secretary, Employment

Mr Finn Pratt, Deputy Secretary, Workplace Relations

Mr Jeremy O'Sullivan, General Manager, Corporate Group

Mr Brian Quade, Assistant Secretary, Parliamentary Performance and Communications Branch, Corporate

Mr Simon Gotzinger, Assistant Secretary, Legal Branch, Corporate

Ms Rowena Barrell, Assistant Secretary, Human Resources Branch, Corporate

Dr Aloka Sinha, Assistant Secretary, Business Services Branch, Corporate

Mr Bernie O'Donnell, Assistant Secretary, Investigations Branch

Ms Vanessa Graham, Chief Financial Officer, Financial Management Group

Ms Lyn Valentine, Assistant Secretary, Financial Policy, Processing and System Support, Financial Management Group

Ms Shirley Douglas, Assistant Secretary, Administered Estimates and Costings

Ms Christine Leary, Chief Internal Auditor

Mr John Burston, Chief Information Officer

**Outcome 1 Employment**

Mr Michael Manthorpe, Group Manager, Employment Business Services Group

Ms Robyn Kingston, Assistant Secretary, Employment Business Services Group

Ms Joan ten Brumelaar, Assistant Secretary, Centrelink and Stakeholder Management Branch

Ms Meredith Fairweather, Assistant Secretary, Employment Communications Branch

Mr Darren Hooper, Assistant Secretary, Employment Services Purchasing Branch

Mr Ali Jalayer, Acting Assistant Secretary, Employment Services 2006 Purchasing Team  
Mr Stephen Moore, Group Manager, Employment Systems Group  
Ms Marsha Milliken, Group Manager, Income Support Initiatives Group  
Ms Jo Caldwell, Group Manager, Intensive Support Group  
Mr Anthony Parsons, Group Manager, Job Search Support Group  
Ms Cathy Walters, Assistant Secretary, Employment Pathways Branch  
Ms Lynne Curran, Group Manager, Specialist Services and Income Support Group  
Mr Pete Searle, Assistant Secretary, Payment Integrity and Assurance Branch  
Mr Phil Brown, Assistant Secretary, Income Support Programme Branch  
Ms Jennifer Chadwick, Assistant Secretary, Vocational Rehabilitation Taskforce  
Mr Ian McInnes, Assistant Secretary, Disability Employment Services

**Outcome 2 Workplace Relations**

Ms Sandra Parker, Group Manager, Office of the Australian Safety and Compensation Council  
Ms Amanda Grey, Acting Assistant Secretary, Information Services Branch  
Mr Drew Wagner, Assistant Secretary, Standards Branch  
Ms Sheryl Hansen, Acting Assistant Secretary, National Strategy Branch  
Mr Tom Fisher, Federal Safety Commissioner, Office of the Federal Safety Commissioner  
Mr Alfred Bonggi, Group Manager, Office of Workplace Services  
Ms Anya Moore, Assistant Secretary, Recruitment and Training  
Ms Sherry Pullen, Assistant Secretary, Technical Advice Branch Office of Workplace Services Group  
Mr Steve Kibble, Assistant Secretary, Branch Head Compliance, Office of Workplace Services  
Mr Michael Maynard, Group Manager, Workplace Relations Implementation Group  
Mr Brien Armstrong, Acting Assistant Secretary, Building Code Assessment Branch  
Mr Leigh Quealy, Assistant Secretary, Building Industry Branch  
Mr Stuart Watson, Assistant Secretary, Industries Branch  
Ms Tulip Chaudhury, Assistant Secretary, Public Sector Branch  
Mr James Smythe, Chief Counsel, Workplace Relations Legal Group  
Mr Bob Bennett, Assistant Secretary, Legal Policy Branch  
Mr David De Silva, Assistant Secretary, Legal Policy Branch  
Ms Natalie James, Assistant Secretary, Legislation Reform Branch  
Mr David Bohn, Assistant Secretary, Legislation Reform Branch  
Mr Peter Cully, Assistant Secretary, Legislation Reform Branch  
Mr John Kovacic, Group Manager, Workplace Relations Policy Group  
Mr Ted Cole, Principal Advisor, Workplace Relations Policy Group  
Ms Louise McSorley, Head of Award Review Taskforce Secretariat  
Ms Dianne Merryfull, Assistant Secretary, Legislation Reform Branch  
Ms Miranda Pointon, Assistant Secretary, Strategic Policy Branch  
Ms Louise McDonough, Assistant Secretary, Wages and Conditions Policy Branch  
Mr Les Andrews, Director, Wages and Conditions Policy Branch  
Ms Jenette Connell, Group Manager, Workplace Relations Services Group  
Ms Joanne Major, Branch Manager, Employee Entitlements Branch

Mr Derren Gillespie, Branch Manager, Remuneration Tribunal  
Mr George Brenan, Branch Head, Workplace Advice and Education  
Ms Melissa Ryan, Director, Workplace Advice and Education  
Mr Jason Potkins, Director, Workplace Advice and Education  
Mr Stewart Thomas, Branch Head, Workplace Programmes

**Outcome 3 Workforce Participation**

Mr Barry Sandison, Group Manager, Working Age Policy  
Ms Sharon Rose, Assistant Secretary, Disability Policy Branch  
Ms Stephanie Bennett, Assistant Secretary, Employment Policy Branch  
Ms Diane McEwan, Assistant Secretary, Mature Age and Youth Policy Branch  
Dr Alison Morehead, Assistant Secretary, Parent Policy Branch  
Mr Bob Harvey, Group Manager, Indigenous Employment and Business Group  
Ms Jennifer Taylor, Group Manager, Labour Market Strategies Group  
Mr Bruce Whittingham, Group Manager, Research and Evaluation Group  
Dr Paul Volker, Assistant Secretary, Evaluation and Programme Performance Branch  
Mr Scott Matheson, Assistant Secretary, Research and Data Analysis Branch

**Office of the Employment Advocate**

Mr Peter McIlwain, Employment Advocate  
Mr David Rushton, Senior Legal Manager  
Ms Ann Skarratt, Corporate Director  
Mr Geoffrey Casson, Deputy Employment Advocate, CSN

**Australian Building and Construction Commission**

Mr Nigel Hadgkiss, Deputy Commissioner  
The Hon John Lloyd, Commissioner,  
Ms Heather Hausler, Assistant Commissioner,  
Mr Ross Dalglish, Deputy Commissioner  
Mr John Casey, Chief Financial Officer

**Comcare**

Ms Barbara Bennett, Chief Executive Officer  
Mr Noel Swails, Deputy CEO, General Manager, SRC Act Policy and Support Division  
Mr Peter Wurfel, Group Manager, Financial Management Comcare  
Ms Janette Davis, General Manager, OHS (CE) Act Policy and Support Division  
Ms Jane Romeyn, General Manager, Research and Strategy Division  
Ms Anne Laisk, Acting General Manager, Corporate Division  
Mr Matt Goldrick, General Manager, Claims Support and Policy Division  
Mr Stewart Ellis, General Manager, Injury Management Division

**Australian Industrial Registry**

Mr Nicholas Wilson, Industrial Registrar  
Mr Terry Nassios, General Manager, Statutory Services Branch

**Indigenous Business Australia**

Mr Ron Moroney, General Manager  
Mr Ian Myers, Deputy General Manager  
Mr Anthony Lovell, Chief Financial Officer

**Equal Opportunity for Women in the Workplace Agency**

Ms Anna McPhee, Director

**CHAIR (Senator Troeth)**—I declare open this hearing of the Senate Employment, Workplace Relations and Education Legislation Committee. The committee will hear evidence today from the Employment and Workplace Relations portfolio. I welcome Senator Eric Abetz, the minister representing the Minister for Employment and Workplace Relations; the secretary, Dr Peter Boxall; and officers with the Department of Employment and Workplace Relations and agencies, as well as observers to this public hearing. The committee examined the budget expenditure of this portfolio at its hearings in May 2005 and asked supplementary questions in November 2005. Today the committee will consider proposed additional expenditure for the year ending June 2006, which the Senate referred to the committee on 9 February 2006. The committee has resolved that answers to questions on notice are to be returned to the committee by Friday, 31 March 2006 and will report to the Senate on or before 28 March 2006.

I remind officers that, in its orders of continuing effect, the Senate has resolved that there is no area of public expenditure 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 advise officers that they shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to more senior officers or the 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 assume we are not going to canvass the Wheat Board here.

**CHAIR**—Not as far as I know.

**Senator Abetz**—If we do, I will be reading that statement, but I daresay that we are not going to canvass it, so I will not waste time.

**CHAIR**—We shall see how the day unfolds. Senator Crossin, I believe you have questions on our first output, labour market program management and delivery, Indigenous employment services.

**Senator CROSSIN**—Dr Boxall, I understand that DEWR was the lead agency for the COAG trial site in Shepparton. Is that correct?

**Dr Boxall**—That is correct.

**Senator CROSSIN**—When did DEWR stop being the lead agency for Shepparton?

**Dr Boxall**—These questions were all asked on notice at the last estimates, and the minister has tabled responses to them.

**Senator CROSSIN**—I understand that but, in order for me to set a bit of a running order for my next questions, I would appreciate it if you could provide me with that date or that month.

**Dr Boxall**—The minister has tabled an answer to question W434\_06, which reads in part:



As part of the handing over of responsibility of the lead agent role in Shepparton, DEWR ensured that the Office of Indigenous Policy Coordination was invited to attend the Aboriginal Community Facilitation Group meetings. These meetings regularly report on progress of the COAG trial.

Another part of the answer reads:

Progress on the Shepparton trial has been reported on a number of occasions to the Secretaries' Group, most recently during the development of the Secretaries' Group annual report.

**Senator CROSSIN**—Dr Boxall, I asked you when you relinquished being the coordinator for that trial.

**Dr Boxall**—I have just given you the minister's answer to that question, and I am not prepared to update the minister's answer.

**Senator CROSSIN**—Do you have a month or a time frame?

**Dr Boxall**—I do not. The minister has answered that, in the handing over of the responsibility of the lead agents role, OIPC was invited to attend the meetings, reported regularly on progress, so it was gradually over time.

**Senator CROSSIN**—I see. Thank you. Are you responsible for any of the COAG trials now?

**Dr Boxall**—No.

**Senator CROSSIN**—I want to go to a situation in Shepparton. No doubt you would be aware of the Ladders to Success program. Do you currently have any unemployment rates for Shepparton?

**Mr Harvey**—The most up-to-date information we have is the 2001 census, which had unemployment in Shepparton for Indigenous people at around the national level, which was 20 per cent.

**Senator CROSSIN**—Do you have more recent figures than that?

**Mr Harvey**—No.

**Senator CROSSIN**—I have figures from the findings from a new ABS survey that was released in January that puts the unemployment rates amongst the local Aboriginal community in Shepparton at 75 per cent to 80 per cent. Have you seen that latest survey?

**Mr Harvey**—I have seen the ABS survey, but the survey does not, from my look at the data, conclude that it is 77 per cent. I add that that data is experimental data released by the ABS. I could not draw those conclusions from the ABS survey.

**Senator CROSSIN**—Can you perhaps take on notice for me what the unemployment rate amongst the local Aboriginal community is if you have got more updated figures than the 2001 census. Perhaps your own department might keep such figures in that area.

**Mr Harvey**—The only figures we have are the numbers of Indigenous people that are on unemployment benefits—Newstart or Youth Allowance—and that is around 350.

**Senator CROSSIN**—What is your recollection of the Ladders to Success program?

**Mr Harvey**—The Ladders to Success program was a successful program. We last reported on that in answers to the Senate and, at that time, we said that through that program about 77

people had got into employment. The latest figures have it at about 80. In that program there was a target of 100. It was a successful program. It led to us putting in place similar programs in Mildura, for example, which have been equally successful.

**Senator CROSSIN**—The Mildura program is still operating, is it?

**Mr Harvey**—Yes, that is correct. I should correct myself: they have completed one contract in Mildura and they placed 100 people out of 100. We are now negotiating a second contract with them.

**Senator CROSSIN**—When you were the Victorian—

**Mr Harvey**—State manager.

**Senator CROSSIN**—state manager—that is the word I am after; I was going to say territory manager, but that might elevate Victoria to a status they are not at. You were on the Ladders to Success committee, weren't you?

**Mr Harvey**—Yes.

**Senator CROSSIN**—It is my understanding that there was some confusion between the roles of Job Network, CDEP organisations and the Ladders to Success program. There were some suggestions that the Job Network agencies are only interested in putting people in placements, not finding long-term suitable work. Can you tell me what financial incentives are there for Job Network agencies to find long-term sustainable employment for Indigenous people?

**Mr Harvey**—I will answer your first question: we do not believe there is any confusion. There is very good cooperation developing between the Job Network members, the CDEP and the Ladders to Success. A forum was held on 30 November in Shepparton where a range of providers came together with the CDEP, and they are looking to put in place a strategy. In terms of Job Network, we have seen significant improvements in the outcomes through the Job Network towards Indigenous. I think in the last calendar year it was just over 42,800 placed through the Job Network. Two things have been put in place: first, there is a high outcome payment for Indigenous—when they end up getting a six-month outcome it gets as high as \$6,600 so that has created substantial incentives; and the other thing is the star ratings because there is an additional weighting for Indigenous. Those two factors together have had a significant impact on getting Indigenous people into jobs through the Job Network.

With the CDEPs across Australia we have put in place employment targets. In the last financial year through the CDEP there was something like 1,573 placements. With the employment targets we have put in place for this year we have already exceeded that and, at the end of January, something like 1,700 placements have been made through CDEPs, so we are very happy with the results that have been achieved.

**Senator CROSSIN**—Essentially, the financial incentives that are there for job agencies to find long-term sustainable employment are not substantial unless that person has been in a placement for six months.

**Mr Harvey**—There are two payments: an initial payment of 13 weeks—the outcome payment at 13 weeks is \$4,400—then at 26 weeks it is another \$2,200 on top of that. So there

is an incentive at 12 and 13 weeks but there are also payments for the Job Search type activities.

**Senator CROSSIN**—That is substantially less though.

**Mr Harvey**—Yes, because it provides a different function. The job search is just doing job placement whereas the intensive support process is providing a lot more intensive support. It can be training or it can be a whole range of things to assist people getting into jobs.

**Senator CROSSIN**—Are Job Network agencies paid according to the number of placements they arrange?

**Mr Harvey**—That is correct.

**Senator CROSSIN**—What roughly is that payment?

**Mr Harvey**—The outcome payment is \$6,600 for six months.

**Senator CROSSIN**—And how much is the Job Search payment?

**Mr Harvey**—Between \$700 and \$800.

**Senator CROSSIN**—Do you collect data on the number of Indigenous people in placements who secure long-term employment out of placements?

**Mr Harvey**—Yes, we do.

**Senator CROSSIN**—How do you collect those statistics?

**Mr Harvey**—We can record it through our computer systems. We know the number of Indigenous people who start in the Job Network. We can measure the number that go into Job Search and then we can measure the number that go into intensive assistance. We can also measure the 13- and 26-week outcomes, because we track the job seekers through the databases that we operate.

**Senator CROSSIN**—Do you collect that data in respect to non-Indigenous people?

**Mr Harvey**—Yes, we do.

**Senator CROSSIN**—Is the data publicly available?

**Mr Harvey**—It may not be public. I do not know the answer to that.

**Senator CROSSIN**—Is there somebody in this room who does know?

**Mr Harvey**—It is publicly available periodically through evaluations.

**Senator CROSSIN**—How do you access that data publicly?

**Mr Harvey**—Generally, those evaluation studies would be available publicly through publications and in some cases on our website.

**Senator CROSSIN**—When would the most recent set of data have become available?

**Ms Caldwell**—We publish on a monthly basis the number of placements and long-term outcomes for Indigenous and other target groups. We publish the overall Job Network vacancy levels, placement levels and long-term 13- and 26-week outcomes month to month. Those month-to-month reports on a supplementary basis will include Indigenous job seekers as well.

**Senator CROSSIN**—Is that on your website?

**Ms Caldwell**—Yes, it is on the website.

**Senator CROSSIN**—All of the data is on the website, is it?

**Ms Caldwell**—Yes—the monthly performance profile data.

**Senator CROSSIN**—Would that include, as I mentioned in the first part of the question, long-term unemployed who secure employment out of placements?

**Ms Caldwell**—The correlation of sustainability is done on a periodic evaluation basis, so we provide the numbers of people who in the month have either passed the initial placement or achieved 13 or 26 weeks. Tracking those longitudinally over time goes to the issue of periodic evaluations by the department.

**Senator CROSSIN**—Try and clarify this for me, then. They only become a statistic for you if they go through Job Network. Is that correct?

**Ms Caldwell**—The Job Network performance profile published data deals with Job Network data.

**Senator CROSSIN**—I see. If they get long-term employment not through Job Network, then they are not counted on your system because they are never logged on your system. Is that right?

**Ms Caldwell**—We have a range of programs to assist Indigenous Australians into work. The publication I was speaking of is specifically about clients who are assisted through Job Network to find work. There would be other materials that would vary in scope and the timing of their release about people getting work out of Indigenous employment centres, through having been with a CDEP organisation, through our STEP projects or through our corporate leader projects as well.

**Senator CROSSIN**—If people enter through those different programs and are then placed in employment, is that also logged as data on your website?

**Ms Caldwell**—We release a range of data for the major programs, such as Job Network. We do publish publicly the monthly statistics. For the others, we may have a report on a project or a best practice study. Obviously, the department's published portfolio budget statements and annual reports go on a periodic basis to sustainability as well.

**Senator CROSSIN**—In the last figures that you have published job placements for Indigenous people have increased.

**Ms Caldwell**—Most definitely.

**Senator CROSSIN**—The ABS survey that we spoke about a minute ago, Mr Harvey, shows that the Indigenous labour participation rate is falling. In fact, they say between 2002 and 2004:

The labour force participation rate decreased ... (from 59.0% to 54.4%), despite an increase in the Indigenous population.

Do you accept that analysis?

**Mr Harvey**—The challenge with these statistics, and the ABS put huge qualifications around them, is that they are experimental data, and this is the first time that they have been released. The other thing is that it is a very small sample based on the labour force surveys, so it is experimental. It is data that is out there but, as ABS says, it is experimental.

**Senator CROSSIN**—Even if it was experimental, surely if your figures are suggesting an increase, no matter how small the sample or how experimental it is, wouldn't it somehow reflect on the data that you are purporting to have?

**Dr Boxall**—The Job Network data for 2005 indicate that job placements of Indigenous people went up by 31 per cent, which is a huge increase. The Job Network placed 42,800, compared with 29,500 in 2004. That is the most recent data that we have on Job Network placements of Indigenous people. With the ABS data, the ABS has made clear that this is experimental data. Indeed, if one asks the ABS, they might well say that one reason they are doing this experiment is so that they can prepare data to answer the sort of questions that you are asking. The fact is that we have not had any data since 2001. The ABS has conducted this experiment and put it out as preliminary data with lots of caveats. What Mr Harvey is saying is that our evidence is that the concrete data shows in 2005 that Job Network placements of Indigenous people were up by over 30 per cent.

**Senator CROSSIN**—Have you had a look at why there would be such a disparity between your data and the ABS survey?

**Mr Harvey**—As Dr Boxall said, the data predates the significant changes that have come through—the placement of Indigenous programs within mainstream departments, the reforms of CDEP, the removal of remote area exemptions, for example, and the release of the Indigenous Economic Development Strategy. All of that predates that work. So the data refers to 2004. We are talking about 2005. As I said, it is experimental, we have looked at it and we have analysed it. I think ABS should be congratulated for being courageous enough to release this data, but it is experimental.

**Senator CROSSIN**—So you are saying that, given the change in your programs last year, if the ABS redid their survey, say, now, you would anticipate that they would have a different outcome.

**Mr Harvey**—You would hope so, yes.

**Senator CROSSIN**—What incentives are there for Job Network agencies to invest in the skills development of participants so they are job ready?

**Ms Caldwell**—There are a number of incentives for Job Network agencies. In fact, the Job Network service continuum under the current and future contract goes to the heart of the incentive balance. Mr Harvey has pointed out that, depending on a person's level of disadvantage and duration of unemployment, the outcome claims that can be made by a Job Network member—the amount we pay them in terms of reward for the performance of not only getting a job but also then sustaining that job in the long term—are quite considerable.

In addition to that incentive of the reward payment for sustainable jobs for those who need help most, there is also the job seeker account, the training account and training credits. Those funds are a quarantined pool of funds so they are not something that comes out of the Job

Network's own bottom line and profit margin. They are held in reserve for Job Network members to be able to make targeted investments in training or in other work related goods and services to assist their Job Network members. So Job Network, if you like, can draw on those credits. They are not putting their own money at risk. That is a quarantined pool of funding that is available to them to be used on accredited training, work experience, subsidies or whatever it takes to help the person.

**Senator CROSSIN**—When you talk about Job Network members, you are talking about agencies or organisations rather than individuals, yes?

**Dr Boxall**—Under the active participation model, the government took a decision to pay additional moneys to Job Network members who place people who are disadvantaged, which includes Indigenous people. So the Job Network members have an incentive to use the jobseeker account and the other facilities that Ms Caldwell mentioned to invest in Indigenous people to get them in a job, because once they get them in a job they get a relatively large payment. Indeed, the system seems to be working because, over the past year or so, or if not a bit longer, the Job Network members in the Shepparton area, for example, are placing Indigenous people at a higher rate than non-Indigenous.

**Senator CROSSIN**—So you would have statistics on how many Job Network members actually take up that incentive to invest in skills.

**Dr Boxall**—We have statistics. For example, we have expenditure under the job seeker account, about which we answer questions at most Senate estimates, which gives an indication of the amount of money spent on different skills and training, and we also have statistics on the placement rates for Job Network members in the Shepparton region of Indigenous job seekers.

**Senator CROSSIN**—I will just go to a survey I have here, the frontline staff survey, conducted by Jobs Australia—that is one logo at the top—and the Brotherhood of St Laurence. I understand it was a survey by ACNeilsen from last year, commissioned by the Brotherhood of St Laurence and Jobs Australia.

**Dr Boxall**—Yes.

**Senator CROSSIN**—It reveals that 43 per cent of Job Network staff believe that the network fails Indigenous people. Have you had a chance to look at that survey?

**Dr Boxall**—Apparently the department is aware of that survey but we have not analysed it.

**Senator CROSSIN**—It might be a bit difficult to answer my next question. I thought you might have had a chance to look at that. Perhaps I can ask you to have a look at that survey. I was going to ask you: in light of that result, do you have any plans to review how the Job Network services Indigenous clients? Forty-three per cent of Job Network staff believe the network is failing Indigenous people. I would have thought it might be something you would look at.

**Dr Boxall**—We do not look at every survey because we have to make a judgment about what is the most efficient use of resources in the department. But, given that you have raised that, we would take it on notice and answer your question, which, just to repeat to make sure I

understand it, is: in light of this survey, does the department plan to make any changes to the delivery of Job Network services to Indigenous people?

**Senator CROSSIN**—Not so much changes but do you have any plans to review how the Job Network services Indigenous clients?

**Dr Boxall**—We will take that on notice.

**Senator CROSSIN**—Are you aware of the Aboriginal Employment Strategy in Moree, which has been achieving some excellent employment outcomes for Indigenous Australians? What is the extent of DEWR's funding to the AES?

**Dr Boxall**—Yes—

**Senator CROSSIN**—Mr Harvey, don't run away. I have CDEP questions.

**CHAIR**—Before we get onto that, Senator Crossin, Senator Ian Macdonald has a couple of questions when you have finished your particular group of questions.

**Senator CROSSIN**—Yes, I am just waiting for an answer to my question, and I still have a few questions in this area.

**Dr Boxall**—Senator Crossin, we are just finding the budget measure, because in the 2005 budget the government announced funding of \$17 million over four years to expand the Aboriginal Employment Strategy. That is a specific budget measure and we are just finding that so we can give you the page number in the budget measures where it is referred to. The department is managing that program for the government.

**Senator CROSSIN**—I have that total figure; I just wondered if you could tell me if it is broken down to a specific amount each year, what the 2005-06 figure is and whether you are on target to actually spend that money.

**Dr Boxall**—Yes, it is broken down over the four years. In 2005-06, it is \$5.2 million; 2006-07, \$4.3 million; 2007-08, \$4.4 million; and 2008-09, \$3.1 million. The second part of your question was whether the department, or the government, was on target to expend those moneys. I will give a preliminary answer and then pass across to the experts. The preliminary answer is that this is a program where the money is to be paid on outputs on placements—not all of it; part of the money is dependent on placements. So, in the event that the Aboriginal employment service exceeds or falls behind the number of placements implicit in the budget measure, there could be some underspending.

**Ms Caldwell**—Senator, what Dr Boxall has said is correct. It is dependent in part on the levels of activity and successful job placements achieved by the AES. The AES's funding arrangement under the budget measure includes payments for job seekers who commence in the service of the AES, those who are placed into work and those who achieve sustainable outcomes.

**Senator CROSSIN**—So you will not actually know whether you have spent that \$5.2 million till the financial year is up, and that would coincide with the number of job placements then; is that correct?

**Ms Caldwell**—Yes.

**Senator CROSSIN**—Are you aware of concerns that have been raised by the AES that DEWR has failed to support successful local Aboriginal run programs because the Job Network system is too inflexible?

**Dr Boxall**—The budget measure is on page 222 of the budget measures document. The department is aware that contracted job providers from time to time do make comments in the media, but we cannot really comment on those comments. We are not in a position to comment.

**Senator CROSSIN**—I am particularly raising concerns that were aired in the House of Representatives inquiry into Indigenous employment. No doubt you have people in your department tracking those submissions and what has been said during that inquiry.

**Dr Boxall**—Staff are aware of the testimony at that inquiry, but we do not have the transcripts yet; I do not think they are available.

**Senator CROSSIN**—Has there been any recognition of or discussion within your department about trying to make the Job Network system more flexible for Aboriginal run programs?

**Dr Boxall**—The Job Network system is incredibly flexible. The active participation model which came into place on 1 July 2003 is very flexible and it is designed to give a customised approach to individual job seekers over a continuum. That is what it does for Indigenous job seekers, as it does for other job seekers who might be classified as disadvantaged. So it is very flexible. It pays on outcomes and, similarly, the budget measure which the government introduced for the Aboriginal Employment Strategy pays on outcomes.

**Senator CROSSIN**—I turn then to the Ladders to Success program, where we started earlier. No doubt you are aware of that program that has been administered by the Ganbina employment agency?

**Dr Boxall**—Yes, the department is aware of that program. Indeed, the department funded a large amount of that program under STEP.

**Senator CROSSIN**—So the program funding was discontinued in December 2005?

**Dr Boxall**—No, the contract expired in 2005 and another contract has not been negotiated as yet. It was not discontinued: the three-year contract finished in 2005.

**Senator CROSSIN**—And then you said another contract has not been offered?

**Dr Boxall**—Has not been negotiated.

**Senator CROSSIN**—Is there an intent to negotiate another contract?

**Dr Boxall**—It depends on the applications that we get. If we get an application then we discuss it with the parties that make the application and we may or may not have a successful negotiated outcome.

**Senator CROSSIN**—Do you have an application from them to enter another contract period?

**Dr Boxall**—I am not aware that we have an application from them.



**Senator CROSSIN**—So the Ladders to Success program was only funded for the three years; is that correct?

**Dr Boxall**—The Ladders to Success program was a STEP program funded for three years, which is a normal length of time to fund such a program.

**Senator CROSSIN**—To your knowledge, are Job Network agencies in the Shepparton region equipped, would you say, to develop the skills of participants who are not job ready?

**Dr Boxall**—Yes, indeed. The Job Network agencies have placed Indigenous job seekers at a greater rate than non-Indigenous job seekers. This is a very impressive outcome.

**Senator CROSSIN**—Would you say they provide culturally relevant services?

**Dr Boxall**—Senator Crossin, they must be doing something right, because they are placing Indigenous job seekers at a greater rate than non-Indigenous job seekers. They are doing very well.

**Senator IAN MACDONALD**—How long do those jobs last on average?

**Mr Harvey**—We measure it in terms of 13- and 26-week outcomes.

**Senator IAN MACDONALD**—Are they generally permanent long-term jobs?

**Mr Harvey**—We pay on the basis of 13 to 26 weeks. We fund the Job Network on that basis.

**Senator IAN MACDONALD**—Does anyone do any study—are they still there five years later?

**Mr Harvey**—We do longitudinal studies, but generally we know that we have had significant outcomes. We know also from analysis that, once a person gets placed in a job, they tend to remain not necessarily in that job but in other jobs. So we know from the work and the analysis that we have done that people end up staying in jobs. We have had very good outcomes through the Job Network.

**Senator IAN MACDONALD**—Are these principally labouring sorts of jobs?

**Mr Harvey**—No, they vary very significantly. In the case of the Job Network and other providers, there are a whole range of jobs that Indigenous people and any other unemployed people are placed in.

**Senator CROSSIN**—Mr Harvey or Dr Boxall, do you think that perhaps the Ladders to Success program, seeing that the contract finished in December last year, might have been a large part of the success last year that you are now telling us about?

**Mr Harvey**—They placed, over three years, about 77. Over that period we were starting to increase placing in the Shepparton region to anywhere between 300 and 400. So they were a component of that increase. Both the Job Network and the CDEP project contributed, but the Job Network contributed the vast number of job placements in the Shepparton region. The CDEP contributed to placements as well. So you had quite a concentration of effort in Shepparton on job placement, through the Job Network, through the CDEP and through the STEP funded project Ganbina.

**Senator CROSSIN**—So you would put to us, Dr Boxall, that the newspaper articles in relation to Ladders to Success are inaccurate where they attest to the fact that funding was withdrawn?

**Dr Boxall**—I do not know to which articles you are referring. What I am telling you and what the department—not me personally, the department—is explaining to you in answer to your questions is that the three-year contract finished in 2005. That was a normal contract—if not slightly on the long side, but definitely a normal contract—for a STEP type project. It finished and, as far as I am aware, we have not received an application for another contract.

**Senator CROSSIN**—The contract was only for a STEP program?

**Dr Boxall**—It was funded out of our STEP program.

**Mr Harvey**—Yes. That whole project was jointly funded by the Australian government and the Victorian state government.

**Dr Boxall**—With the overwhelming majority of money coming from the Commonwealth government.

**Senator CROSSIN**—Is there any intention to review the interaction between, say, Job Network and CDEP organisations or other programs?

**Mr Harvey**—In the Shepparton region?

**Senator CROSSIN**—Maybe in that region, but also nationally.

**Mr Harvey**—We continually review the interaction as part of the CDEP reforms that were in place last year. A major emphasis in that was building the links between Job Network and the CDEPs and other employment programs, and that has again been quite successful.

**Ms Caldwell**—If I could add to Mr Harvey's response on that matter: on the Job Network front we also are continuously encouraging links with local Indigenous organisations and programs, Indigenous coordination centres, STEP projects and corporate leaders. In the course of this year we have released materials around better practice and study, and one of the learnings out of that, among others, went to directly building better links with local organisations, including CDEP organisations. We have a number of examples across Australia of very effective links across, in particular, Job Network, CDEP and Indigenous employment centres, where they oftentimes partner so that they can all bring to the mix of servicing one client the range of interventions that they can experience from all of those agencies. It is very much part of the active participation model that Dr Boxall referred to before to encourage those links across a range of services which help achieve the sorts of results Mr Harvey spoke of before.

**Senator IAN MACDONALD**—Can someone explain to me in two simple sentences what the department's overall Indigenous employment long-term strategy is and whether that strategy is different for city-dwelling Indigenous people as opposed to country-dwelling Indigenous people, Indigenous people in remote areas and Indigenous people in their traditional places of residence.

**Mr Harvey**—The government recently released an Indigenous economic development strategy. In that strategy the main theme is economic independence, basically ensuring that

people have a job but also that they effectively have access to assets and other things to create economic independence. Under that umbrella there is a whole range of strategies to deal with getting people into jobs: local job strategies, industry strategies, reforms of CDEP, home ownership on Indigenous land, home loans to Indigenous people. The basic thing is economic independence for Indigenous people.

In terms of how we apply it, we review every Indigenous community—and the programs that are delivered—as unique situations. The programs will be applied depending on the unique situation of each community. That was also recognised by the government when they released the reforms of CDEP. They acknowledged that each community has unique requirements around employment, business development and community requirements, and the interventions are designed around that.

**Senator IAN MACDONALD**—Has anyone ever considered the fact that part of the problem is that there are very separate programs for Indigenous people?

**Mr Harvey**—I do not think that having separate programs is a problem. By putting in place the Office of Indigenous Policy Coordination and Indigenous coordination centres, the government has put in place a capacity to apply the mix of programs to a situation. So it is of benefit to have a range of programs that you can apply. The community generally does not need to know what that range of programs is. Within each Indigenous coordination centre there is a range of solution brokers who design an intervention to assist a program. But they do not only that; they also work across a whole of government approach. They work with local government and state government. The numbers of programs does not become a real issue. This new approach allows you to intervene in unique ways.

**Senator IAN MACDONALD**—But it treats one group of Australians as a separate class of people.

**Mr Harvey**—No, what it is doing is providing a significant injection into support for Indigenous people to ensure that their economic independence is at the same level as it is for other Australians. Given the situation of Indigenous people, you actually need a suite of programs that is going to achieve a better result.

**Senator IAN MACDONALD**—Is CDEP available for non-Indigenous Australians in remoter communities?

**Mr Harvey**—Non-Indigenous people can access CDEP. Through the reforms last year, the government proposed to reduce that level, and we have been progressively reducing the level.

**Senator IAN MACDONALD**—Reducing what level?

**Mr Harvey**—The level of non-Indigenous participants in CDEP. It was around 95 per cent Indigenous; it is now about 96 per cent. Our target is to get to 97 per cent Indigenous people in the CDEP program.

**Senator IAN MACDONALD**—What is the rationale behind that?

**Mr Harvey**—The rationale is that there is a whole range of interventions available for non-Indigenous people. The CDEP program is a specifically designed program to assist Indigenous people because of their higher level of disadvantage.

**Senator IAN MACDONALD**—Non-Indigenous people living in Doomadgee have the same level of difficulty in obtaining employment—unless they are, dare I say it, public servants—as Indigenous people in those more remote communities. I am particularly thinking of a lot of communities in the Gulf. Yet there is an artificial divide between what one group of Australians can get as opposed to another group of Australians.

**Mr Harvey**—There is not really an artificial divide. The government acknowledges that they need to do more for Indigenous people and that is what they do. They also acknowledge that there are non-Indigenous people in remote communities, and they are serviced through either the Job Network or Work for the Dole providers—

**Senator IAN MACDONALD**—Has anyone ever understood that by doing that, you are saying to Indigenous people: you are different to the rest of us, and you cannot look after yourselves as well as this other group of Australians? Has anyone ever investigated whether that is part of the problem?

**Mr Harvey**—We get exactly the opposite reaction, because what Indigenous people say to us across Australia is that it is good that the government is applying this so they can get a fair chance. The other thing is we are using CDEP as a stepping stone into real jobs.

**Senator IAN MACDONALD**—But in a small community, CDEP should be available to all of those who find difficulty in gaining employment.

**Mr Harvey**—But you have Work for the Dole in those communities—you have Job Network.

**Senator IAN MACDONALD**—Again, I say: why isn't everybody on Work for the Dole?

**Mr Harvey**—Why isn't everyone? They can be on Work for the Dole if they are eligible to be on Work for the Dole.

**Ms Caldwell**—Indigenous people, including Indigenous Australians, participating in the CDEP program can volunteer to participate in Job Network services. They are eligible for the complete range of Job Network services, the same as any non-Indigenous Australian would be. They can go direct to Job Network. Job Network can sign them up on the spot. They do not have to process through other protocols. They are more than welcome into Job Network, and we will shortly be releasing the remote services tender for rural and remote Job Network and other employment services such as Work for the Dole. Again, that goes to the issue of making sure we have the best possible coverage in all communities.

**Senator IAN MACDONALD**—So Indigenous Australians, you are saying, can apply for that as well as every other Australian and be treated in the same way.

**Ms Caldwell**—They have access to CDEP and also to Work for the Dole and Job Network.

**Senator IAN MACDONALD**—Let me preface it this way: there are a lot of communities where the chances of self-generating economic development that will bring opportunities for jobs is reasonably remote. Has the government ever considered as a broader policy that there should be some investment in perhaps some non-economic activities that would create jobs? What I am saying is that you would be almost subsidising these jobs but paying Indigenous people a regular wage through an operating activity although if you left it entirely to the market forces that activity may not happen.

**Dr Boxall**—That is a policy option to subsidise businesses that otherwise would not go to remote communities and then the residents of remote communities would work in that business for that business at market determined wages. That is a policy option, but the government has not elected to do that.

**Senator IAN MACDONALD**—Unfortunately, Senator Abetz seems to have left us. As he would well know, along the lines that I am talking, there has been a call to fund Indigenous rangers in the Gulf of Carpentaria for surveillance work in relation to illegal fishing and other fishing activities. Good surveillance strategies may say that that would not be a top line use of available resources but you could bring it in as saying it would be useful in surveillance—not top line—and if you are only looking at surveillance you perhaps would not take that option, but you could look at it also as a way of creating employment that is genuine, that is paid through a commercial company—an Indigenous company, as I understand it. Is that the sort of strategy that your department would be interested in funding?

**Dr Boxall**—Yes. I am very glad you raised that specific example because the staff have had discussions with Senator Abetz's department to see whether we can progress those very types of examples.

**Senator IAN MACDONALD**—Where are we with that? I do not want you to disclose internal advices, but are we getting there? What is the time line? When do you think some decisions might be made? I am sorry Senator Abetz is not here.

**CHAIR**—He had to go out briefly.

**Dr Boxall**—I think it is fair to say that those discussions are very active. Not only is the department involved in discussions with Senator Abetz's department; the department is also planning to have discussions with the Territory government. When I was the lead secretary for the COAG trial site in the Cape we had some discussions there with the department of environment on issues about rangers being employed in the Cape. The best description would be that discussions on the topic that you have raised are very active.

**Senator IAN MACDONALD**—Okay. I am pleased to hear that. That is the sort of information I always found difficult to get in a previous life. This has been under discussion for some time, but it never seems to reach finality. I look forward to the next estimates committee. Are we having any more estimate committees, or are they gone?

**CHAIR**—Quite soon—after the budget.

**Senator CROSSIN**—We all look forward to it. Unless as a government you kneecap estimates committees, but we are hoping to be back here in May.

**CHAIR**—They do come around quite regularly, so we will be having some more.

**Senator IAN MACDONALD**—I look forward to seeing the results of these discussions on Indigenous employment at the next estimates committee. Thanks for that, and good luck.

[9.56 am]

**CHAIR**—We will move to output 3.2.

**Senator CROSSIN**—I might go to CDEP now that that issue has been raised by Senator Macdonald. Mr Harvey, you and I may have had a long discussion about CDEP in the past—I

know I have had one with Wayne Gibbons. Following on from what Senator Macdonald was talking about, is the department looking at moving people off CDEP where they are currently in a job that would normally be a job found in an urban centre? Examples are child-care workers and aged care carers who live in remote communities who are on CDEP but if they lived in an urban centre would be paid a full wage under an award.

**Mr Harvey**—The answer is yes. We are looking to make sure that people across Australia, though you are talking about people in urban and regional areas, step out of CDEP into a job that is sustainable and gets them an income which is a lot higher than they can earn on CDEP. A job outside CDEP is the objective of the program.

**Senator CROSSIN**—That is not quite what I mean. Instead of stepping out of CDEP into a job that is sustainable, most of the people in the remote communities that I go into are actually already in sustainable jobs, but they are being paid CDEP rather than the wage.

**Mr Harvey**—Correct. We are looking at that as well. We are working with both the Commonwealth government and the state governments to look at the issue of transitioning people out of the CDEP into those jobs and ensuring that they get a full wage. When you look across many communities across Australia there are a range of jobs done by people on CDEP where they could get a wage.

**Senator CROSSIN**—What sort of work is actually being done in that regard? Is it about supplementing that position or providing access to more funding or grants by community councils?

**Mr Harvey**—It is about working with all levels of government and saying, ‘This is the situation. Let’s look at creating real jobs outside CDEP.’ We are working on what we call ‘Local jobs for local people’. We are working with state governments and we are working very closely with the Territory government on that to ensure that over the next couple of years we have jobs in place. Previously Dr Boxall talked about sea rangers. We are looking at the areas of child care, education, health, arts and broadcasting, for example, and we are working with a range of Commonwealth and state government agencies to put that in place in those areas. We believe that in the future we will see more Indigenous people move into jobs outside CDEP through this strategy.

**Senator CROSSIN**—What does that need? If I were a sea ranger at Maningrida I would be doing a job and, I imagine, I would be doing it somewhere between 25 and 38 hours a week. But I would not be being paid an award wage as I would if I were a ranger at Kakadu National Park, for example, employed by Parks.

**Mr Harvey**—That is right.

**Senator CROSSIN**—What does it take to move those people who are sea rangers? You are not moving them out of a job; you are converting the CDEP into a job.

**Mr Harvey**—That is correct.

**Senator CROSSIN**—How is that happening? What is the process?

**Mr Harvey**—It is happening through negotiations with the Territory government and through discussions we are having very actively on the ground, not only around sea rangers but also around a range of other strategies, with the Territory government and other

governments. In particular, we are talking with the Territory government about putting in place strategies so we can look at the funding going in from Commonwealth and state agencies, bring it together and create the job in a community. That is what we are working on and that is part of the local jobs for local people strategy.

**Senator CROSSIN**—Have you targeted certain communities or certain areas like child care, land care or rangers? Is it being done by community or by job?

**Mr Harvey**—We are doing it both by community and by targeting strategies around child care, education, broadcasting and the sea rangers. We are also targeting, as we lift what is called the remote area exemptions, what opportunities there are for jobs in those regions. So we have a two-pronged strategy.

**Senator CROSSIN**—Can your department tell me how many people being paid CDEP would be currently placed in a state or territory government position?

**Mr Harvey**—There would be several hundred, Senator. I do not have the figure off the top of my head. I know, for example, there are roughly 400 CDEP participants that participate in a thing called Caring for Country, which includes sea rangers. And I think there are several hundred in the area of education and so on. So we are progressively getting a break-up of these—

**Dr Boxall**—Senator Crossin, we could take that on notice and see whether we can give you a more precise figure.

**Senator CROSSIN**—If I could just talk about education, there are Indigenous CDEP recipients who might be placed in departments of education around the country—why do you let that continue? Why do you not say to state and territory governments, ‘You need to pay these people a wage instead of having cheap labour hire in the form of CDEPs’?

**Dr Boxall**—It is not so much a cheap labour issue. In a sense, that is what we are working on. You quite rightly use the expression ‘convert the job’. That is what we are working on. That is what Mr Harvey is saying we are working on. We are working towards exactly what it appears from your question you think is a desirable goal.

**Senator CROSSIN**—Are you working towards a stage where in, say, five years time state and territory governments will not be able to put CDEP recipients on as, say, Aboriginal education workers and will need to put them on their public sector scale?

**Dr Boxall**—It needs to be done in the context of bilateral negotiations with individual state and territory governments. As you probably know, the cooperation between the Northern Territory government and the Commonwealth government on these sorts of issues is well advanced. Mr Harvey and his team are in a position to discuss the very sorts of matters that you are raising with the NT government for communities in the Northern Territory where they have CDEP. But we do not have a goal of what we might achieve in five years time as yet; we are just starting to work on it. We will work with the relevant local and state or territory governments, and indeed with other Commonwealth departments, in order to develop a strategy to achieve the goal which I think is implicit in your question.

**Senator CROSSIN**—I might follow that up at future estimates hearings, because sometimes I think the only way we are going to get people off the welfare merry-go-round is

to change the merry-go-round. I might have talked about this during previous estimates hearings; there are shades of *deja vu* here. I would like to talk about the reported reduction in CDEP wages for young people to cross-subsidise training. Is this still being considered? Is it a policy change that has been finalised?

**Mr Harvey**—The government has not made any announcement about that.

**Senator CROSSIN**—So it is still under consideration?

**Mr Harvey**—That is so.

**Senator CROSSIN**—When do you expect an announcement to be made?

**Dr Boxall**—It depends whether government decides to do it or not, so we don't know.

**Senator CROSSIN**—What would be your definition of a young CDEP recipient?

**Mr Harvey**—Fifteen- to 20-year-olds.

**Senator CROSSIN**—Would it be 21 and under?

**Mr Harvey**—Yes.

**Dr Boxall**—It is under 21; not 21 and under.

**Mr Harvey**—Sorry, Senator.

**Senator CROSSIN**—What would be the rationale for suggesting that you would reduce CDEP wages for young participants?

**Dr Boxall**—These are issues that are under consideration by the government. We are not in a position to canvass this type of policy at this stage.

**Senator CROSSIN**—Let me see if I can ask any of the other questions that I have. Have you done any research or analysis of how such a reduction in wages would impact on CDEP participants of that age?

**Dr Boxall**—In the event that the government were actively considering this option, we would provide advice, which may or may not include analysis of it. But we are not in a position to discuss what sort of advice we might or might not be preparing on this particular topic. The government is yet to make an announcement of its intentions, let alone whether it is going to adopt such a policy.

**Senator CROSSIN**—I understand the position about providing advice. Are you in a position to be able to tell me whether you have conducted any research on or done any analysis of the impact of reducing CDEP to subsidise it for training?

**Mr Harvey**—The only thing we do know is that already a number of CDEPs pay youth rates to their participants, so that is all we know. We have not done any other analysis, but we know that. That is as much as I can give you.

**Senator CROSSIN**—They are paying youth rates because they are just using the junior rates in the award as a guide—is that correct?

**Mr Harvey**—It varies. For a CDEP, yes, that is basically correct.

**Senator CROSSIN**—Have you looked at the \$30 million underspend in Abstudy in 2004-05? Has there been any discussion across portfolios about utilising that underspend?



**Mr Harvey**—We would not enter into discussions with other departments about their underspends generally, no.

**Senator CROSSIN**—So whole-of-government, cross-portfolio is not quite working yet, I have discovered in estimates.

**Mr Harvey**—No, I can assure you that it is working in terms of a single Indigenous budget, but I was not personally aware of the underspend in Abstudy, Senator.

**Senator CROSSIN**—That is because there has been a large decrease in the uptake of Abstudy levels by Indigenous people, so there is an underspend. It has been reported that there may be a reduction in CDEP wages for subsidised training, yet in another portfolio we have a significant underspend. I wondered whether the silos had really been broken down—but maybe not.

**Mr Harvey**—The silos have been broken down, Senator—and thank you for that information.

**Senator CROSSIN**—Are any other changes to the CDEP program being considered other than the major changes that were implemented last year?

**Mr Harvey**—The government is continually looking at reforms of a whole range of programs, including CDEP. It is up to the government to respond.

**Senator CROSSIN**—I wanted to ask some questions about the WA truancy trial. Is this the right area?

**Dr Boxall**—Yes.

**Senator CROSSIN**—How many truancy trials have there been in Halls Creek?

**Mr Carters**—There was a trial which was conducted at the end of the 2005 school year, primarily by Centrelink. That was reviewed by the department. There is a new one which is commencing in Halls Creek this school year.

**Senator CROSSIN**—What does the new one consist of?

**Mr Carters**—The philosophy behind the new one is that the families in Halls Creek who are interested in participating will work with a range of portfolios—including Education, state and Centrelink on the ground, and obviously there will be key involvement of the WA state government as well—to assist Indigenous families to place their children in school on a regular basis. Also, in placing children in school, it gives them opportunities to participate in other activities while their children are in school as well as addressing the issue of truancy itself in its own right.

**Senator CROSSIN**—Will this become an SRA?

**Mr Carters**—This is being undertaken separately from an SRA. I guess there is a possibility there but we have not needed to do that as such.

**Senator CROSSIN**—Is there a need to seek legal advice about this new proposal?

**Mr Carters**—The new proposal is purely voluntary. It is voluntary for the parents to participate. In that context, the legal advice is not relevant to that because of the voluntary nature of the participation.

**Senator CROSSIN**—Did the department seek any legal advice on the legality of the arrangements of the previous trial before implementing it?

**Mr Carters**—The department sought legal advice on whether it was within the jurisdiction of the social security legislation to require parents to send their children to school, yes.

**Senator CROSSIN**—Is it possible to advise me when you sought and received that legal advice?

**Mr Sandison**—The legal advice that we sought was after the trial was put on hold. As you know, the trial was commenced by Centrelink and operated there. There was engagement with Centrelink national office in Canberra and advice was passed to DEWR that the trial was operating, and then we sought the legal advice. That supported the Centrelink decision to put the trial on hold.

**Senator CROSSIN**—So we are only talking about one lot of legal advice here—there were not two lots of legal advice sought?

**Mr Sandison**—I am sure we had several discussions with our legal people, but the advice was that a component of the trial that required the parents to come in for an interview regarding what might have been happening in relation to truancy would not have been covered under the Social Security Act.

**Senator CROSSIN**—There have been some suggestions that there were two lots of legal advice. The suggestion is that the first legal advice had said that it was legal and the second advice said it was not legal. Can somebody clarify that time line?

**Mr O'Sullivan**—I think we will have to take any further questions along that line on notice. We need to consider whether it would be appropriate for us to waive any legal professional privilege we may have in regard to this matter.

**Senator CROSSIN**—So there was a possibility that there was two legal advices then, I suppose.

**Senator WONG**—Senator Crossin's question does not go to the content of the advice. It goes to the provision of more than one. Is that right?

**Senator CROSSIN**—No. It does go to the content, because I asked whether the first advice was legal and whether the second advice was illegal. You are actually saying to me you will need to take some advice on that.

**Mr O'Sullivan**—We are happy to take it on notice just so we can fully consider the implications.

**Senator CROSSIN**—I understand what you are saying. What was the anticipated duration of the trial? Can anyone remember that?

**Mr Sandison**—Which one? The one that was stopped or the one that is aiming to start this month?

**Senator CROSSIN**—The one that was stopped.

**Mr Sandison**—I think you would have to ask Centrelink for the full details because they started the trial. There was not an engagement with DEWR or with the Centrelink national

office but I believe it ran for a reasonable proportion of last year before about October, when it came to the attention of people in national office Centrelink. That is when it was stopped. I do not know whether it started in July at the beginning of the second half of the school year or if it started earlier.

**Senator CROSSIN**—When did it come to your attention, then?

**Mr Sandison**—In October when Centrelink advised us.

**Senator CROSSIN**—Canberra Centrelink?

**Mr Sandison**—Correct.

**Senator CROSSIN**—I do not think I have anything else about that. My only other questions are for IBA but they are not until 1.30, I think.

**CHAIR**—That is correct. Senator Wong, are you going on to outcome 1?

**Senator WONG**—We generally do 1 and 3 together.

**CHAIR**—Yes, that is right. Please proceed.

**Senator WONG**—Dr Boxall, I just wanted to get clear the various changes in the classification of job seekers utilising the JSCI that have taken place. Going back to pre-2003, at that point was the classification of a job seeker and the determination of their level of disadvantage undertaken by Centrelink?

**Ms Golightly**—Yes, that is correct, and it still is.

**Senator WONG**—At that stage, if a Job Network member disagreed with the classification that Centrelink had undertaken, the Job Network member could refer the matter back to Centrelink for—

**Ms Golightly**—An update.

**Senator WONG**—Updating is the terminology, isn't it?

**Ms Golightly**—Yes and yes, that is correct.

**Senator WONG**—Was there a charge associated with that or a payment?

**Ms Golightly**—The referral back to Centrelink?

**Senator WONG**—Yes.

**Ms Golightly**—No, I do not believe so.

**Ms Caldwell**—I believe there was a minor charge in certain circumstances for a reclassification initiated by a Job Network member. Of course Centrelink would, free of charge, have taken on board any additional information by the job seeker themselves.

**Senator WONG**—Just to clarify: Centrelink does it. They classify the job seeker's level of disadvantage. The person goes to the Job Network member. Some additional information may have been provided by the Job Network member, which may lead Centrelink to alter the classification but, if it was unable to be agreed in that informal way, the Job Network member would formally refer the matter back to Centrelink for an update. Is that how it worked?

**Ms Caldwell**—Essentially. That was in the context of different service script in which, since July 2003, job seekers are now attached to a single Job Network member as long as they become unemployed. So it is difficult to make direct comparisons between the current Job Network arrangements and the old ones.

**Senator WONG**—I do not think I was. I am actually just trying to get the system pre July 2003 clear in my mind in terms of the evidence before this committee. I will go through it again. This is how I understand your evidence to be. Pre July 2003, a job seeker was classified by Centrelink utilising the JSCI. They would then be referred to a Job Network member. The job network member could liaise, have dialogue, with Centrelink. If they had additional information they felt that Centrelink had not taken into account, that could lead to Centrelink altering the classification. Alternatively, if there was unable to be an alteration there and the Job Network member still felt the person was incorrectly classified, they could formally refer the matter back to Centrelink for—was it called a review or an update?

**Ms Golightly**—A review, I suppose. It can go either way, of course.

**Senator WONG**—And, again, Centrelink will determine whether or not, on the basis of that reclassification, they were to determine the level of disadvantage.

**Ms Caldwell**—Yes. And the third scenario was where the individual job seeker reported to Centrelink in the course of ongoing dialogue that their circumstances had changed or there was some information on their record that was out of date and needed to be corrected.

**Senator WONG**—The level of disadvantage that the job seeker is deemed to have, utilising the JSCI, determines the level of funding that is paid to the Job Network member. Is that correct?

**Ms Golightly**—It determines the type of service that the Job Network is to provide to that job seeker.

**Senator WONG**—But, essentially, if you are more highly disadvantaged, you get a higher level of service; therefore, the funding to the Job Network member is greater.

**Ms Golightly**—Indeed, if they get the person a job in the end. There are some service fees up front but, as you know, the outcome fees are the major part of the funding. So, if the person went on to get a job, then yes.

**Senator WONG**—Okay. So, if you are highly disadvantaged, the outcome fee a provider can earn is greater.

**Ms Golightly**—Yes.

**Senator WONG**—Is there a difference in the initial service fee, currently?

**Ms Caldwell**—Yes.

**Senator WONG**—What is that difference?

**Ms Caldwell**—There are two differences. Persons who need additional service move more quickly into customised assistance. The amount of service fee for that customised assistance is higher. The difference in the fee for the service is \$800 for a non highly disadvantaged job seeker. The service fee for a highly disadvantaged job seeker is \$1,200.

**Senator WONG**—Can you just remind me of the current outcome fee differences between a non highly disadvantaged and a highly disadvantaged person?

**Ms Caldwell**—It depends very much on the comparator with the non highly disadvantaged rate. When a person gets an outcome fee, their outcome fee can vary from as low as \$550 to \$6,000 on the basis of the duration of their unemployment, essentially. A highly disadvantaged job seeker placed in sustainable employment will be paid around the same amount as somebody who has been unemployed for two years. There are in fact some non highly disadvantaged job seekers who have been unemployed for more than three years, and they get paid higher still again.

**Senator WONG**—Yes, it is a bit of a matrix. Obviously with the Welfare to Work this is something I have not been focusing on quite as much since the budget last year. I recall at one briefing, although things might have changed since then, I was given a document which set out the various outcome fees and service fees. Do you have something like that I could get? If you can provide it, I can ask questions about it later.

**Ms Golightly**—I am not sure we have it here, but we can get something like that for you.

**Senator WONG**—Perhaps later in the morning? I would appreciate that.

**Ms Golightly**—I would need to get it a bit later for you.

**Ms Caldwell**—We should be able to get it to you in the course of today. I understand that you are after a table of the outcome fees for different categories of jobs.

**Senator WONG**—That is right. I just want to get some understanding. As I understood your answer, Ms Caldwell, there are different characteristics—that is, length of unemployment and level of disadvantage—that impact upon the outcome fees.

**Ms Golightly**—Yes. We will get that for you.

**Senator WONG**—Let us go back to the process and your evidence, Ms Caldwell, about the pre-July 2003 situation. I understand there was a change in July 2003, which I will ask you about, but what led to that change, what precipitated it?

**Ms Golightly**—I might start, and then Ms Caldwell can add any detail I leave out. Basically, as you know, July 2003 saw the introduction of the active participation model, which was a very big change to the way Job Network and employment services were delivered. One part of that change, and a significant part, was that, for the first time, the job seeker would be allocated to a single provider for the life of their service with Job Network, unless there was some exceptional circumstance. Basically this was done so that the Job Network provider and that job seeker worked together.

**Senator WONG**—Married.

**Ms Golightly**—Yes. It was another way of targeting better the particular services that that job seeker needed. A lot more tailoring was enabled under the new system. That was the major change. This led to us being able to give Job Network members the ability to reclassify the JSCI if the job seeker either gave them information that was not given to Centrelink or indeed over that period of time with the Job Network member that job seeker's circumstances changed and therefore affected their HD status.

**Ms Caldwell**—If I could add to Ms Golightly’s explanation: our guidelines, issued by the department at the start of the market when this was introduced, examine the sorts of typical situations that might arise. They draw attention to three types of classification. For example, a job seeker working on an ongoing basis with their Job Network member may say: ‘There is information in my record that is simply incorrect. It wrongly says that I have year 10 qualifications. I have actually got year 12, so there has been a clerical error in my earlier advice to Centrelink. I need to make that right.’ That would have the effect of downgrading rather than upgrading the score. So it could be an error in the information first provided. Or there could be a change of circumstances: ‘I have just completed a training course through the job seeker account and we need to recognise that I now have a certificate III that I did not have yesterday.’ And of course there can be the development of additional conditions. Somebody may suffer an injury or develop a condition or change their personal circumstances such that the record the Job Network member had from the initial time with Centrelink is simply no longer up to date.

**Senator WONG**—Do I understand from your evidence that the circumstances that you say were envisaged with the 2003 change which enabled Job Network members, as opposed to Centrelink, to actually reclassify people were focused around circumstances essentially where either the information on the record was incorrect or there was a change in circumstances on the level of the attributes of the job seeker—skills et cetera—or personal physical health or other personal circumstances?

**Ms Golightly**—Yes. It is also the case that Centrelink can still update the JSCI as well.

**Senator WONG**—How would Centrelink update the JSCI if the power to do that was given to the Job Network member?

**Ms Golightly**—It was never taken away from Centrelink. They can still upgrade. If the job seeker, for example, tells Centrelink some additional information through their ongoing contact with Centrelink, then they will update it.

**Senator WONG**—I might come back to that. Do you have guidelines which were issued around July 2003 which set out the circumstances that you have just described? I think you mentioned some documents, Ms Golightly.

**Ms Caldwell**—Yes. There was a range of bulletins at the start of the current contract period which indicated how to use the function properly. There have been a range of user guides. They were also train the trainer materials through our training centre, online and face to face at the start of the APM.

**Senator WONG**—What I am interested in, at least at this stage, is the first set of guidelines associated with the initial change. Do you have those here?

**Ms Golightly**—I am pretty sure we have them here.

**Senator WONG**—To try to expedite this, I will ask for all documents from July 2003, or around the time of that change, to date from DEWR to the Job Network relating to Job Network members’ reclassification or updating of the JSCI. I would appreciate as many as possible today. I appreciate that there may be other systems that you have to look at but today I would like to know at least the parameters. That is my request, currently and on notice.

**Ms Golightly**—Certainly. We have some but not all of those.

**Ms Caldwell**—I have with me today the current guidelines for use of this facility. I do not have a full set of every guideline, update and instruction because there has been quite an amount of guidance over the 2½ years that this has been in place.

**Senator WONG**—I can imagine. Is it your evidence that the Job Network members' power to reclassify was limited to the reasonably limited circumstances you have given evidence about?

**Ms Golightly**—Yes.

**Senator WONG**—What led to the change? What precipitated it?

**Ms Golightly**—The fact that there was going to be a closer and longer association between the Job Network provider and their client and that that would update over that period of time.

**Senator WONG**—The APM is the active participation model. Is that correct?

**Ms Golightly**—Yes, that is right.

**Senator WONG**—Prior to its introduction, did the department receive feedback from Job Network members that raised concerns about misclassification by Centrelink?

**Ms Golightly**—That was prior to 2003?

**Senator WONG**—Yes.

**Ms Golightly**—I will just check.

**Senator WONG**—I am asking if the change resulted in responses to Job Network members concerned that perhaps the level of classification was not always as accurate as it could be.

**Mr Manthorpe**—I am not aware of any specific feedback the department may have received from Job Network members prior to 2003 on whether or not the classifications were being done accurately by Centrelink in a specific sense, but I can tell you that in our relationship with Centrelink we have long had a KPI, a key performance indicator, in our arrangement with Centrelink which goes to the correct application of the JSCI.

**Senator WONG**—I am not asking about that, Mr Manthorpe. I am asking about what the Job Network members told you before 2003.

**Dr Boxall**—Mr Manthorpe is answering your question, Senator.

**Senator WONG**—But I did not ask that question, Dr Boxall.

**Dr Boxall**—Madam Chair, Mr Manthorpe is answering Senator Wong's question.

**CHAIR**—Please proceed, Mr Manthorpe.

**Mr Manthorpe**—One of the elements of the KPI in respect of the JSCI is about the accuracy of its application. We have tested that, through survey work periodically over a number of years, and found that Centrelink has met that KPI.

**Senator WONG**—So your answer is, Mr Manthorpe, that there was no concern raised by Job Network members prior to the change of 2003?

**Dr Boxall**—His answer is that he is not aware of any.

**Mr Manthorpe**—That is right.

**Senator WONG**—Is anybody else aware of whether or not there were concerns raised by Job Network members?

**Dr Boxall**—No.

**Senator WONG**—When the decision was made to give Job Network members this power, did the department undertake or obtain probity advice, for example from external sources?

**Dr Boxall**—The decision was part of the contract. It was part of the active participation contract and, as such, the department would have received legal advice on the contract. As part of the tendering process under that contract, the government would have received probity advice on the tendering for that particular contract. This issue is part of the contract.

**Senator WONG**—I asked if there was any probity advice sought by the department in relation to providing Job Network members that are organisations which would potentially benefit financially from reclassification?

**Dr Boxall**—I am not aware of any probity advice on that particular issue.

**Senator WONG**—So the decision was to give organisations which would potentially benefit financially from a decision the power to make such a decision. Are you suggesting that no probity advice was sought on that issue?

**Dr Boxall**—No, I did not say that. I said I am not aware of any probity advice being sought on that particular issue. The issue is part of a contract, and the idea is that the Job Network members provide a service to the government and the government pays the Job Network members, just like any other aspect of the contract.

**Mr O'Sullivan**—A point of clarification might assist here. I generally understand the term 'probity advice' to be reserved for tender processes to ensure that the rules of the tender are complied with. The answer to your question in my legal mind would be no, because that would not be the kind of advice I would seek.

**Senator WONG**—Okay. I am interested in whether legal advice was sought on whether it was appropriate to give organisations which have financial interests in the outcome of a decision the power to make that decision.

**Dr Boxall**—We are not aware of whether legal advice was sought on that particular issue. The issue is that that, like any other part of the contract, is subject to controls, monitoring and sanction.

**Senator WONG**—You said you are not aware of whether legal advice was sought on that issue. Is the contracting department DEWR?

**Dr Boxall**—Yes.

**Senator WONG**—So, if advice was sought, presumably it would have had to have come from DEWR, no? I am trying to work out whether anybody else would have sought it.

**Dr Boxall**—No. It is DEWR's contract on behalf of the government. We do the contract, so we seek legal advice if we consider it necessary. We are saying that we are not aware—and



nobody has come forward to tap me on the shoulder—that we sought legal advice on the particular issue that you are asking about. Of course we got legal advice on the contract as a whole.

**Senator WONG**—Shall I pause to give someone the chance to come forward and tap your shoulder?

**CHAIR**—I think Dr Boxall has already indicated that.

**Senator WONG**—Was any advice sought from DOFA regarding the appropriateness or otherwise of giving Job Network members this power?

**Ms Golightly**—This was part of the whole APM model, and the whole model is subject to DOFA and other consideration at government level. The department of finance certainly goes through those proposals very much in detail.

**Senator WONG**—And it went through this proposal?

**Ms Golightly**—Yes, it was part of the whole APM model.

**Senator WONG**—Did it provide written feedback on the proposal?

**Ms Golightly**—It would have been part of the budget deliberations of that year.

**Senator WONG**—Are you able to tell me whether there was any specific advice provided in relation to this issue?

**Ms Golightly**—Not offhand. I can take that on notice.

**Senator WONG**—What about the Auditor-General or any other statutory agency or external body?

**Dr Boxall**—The issue is that in the 2002 budget our minister took a cabinet submission as part of the expenditure review process which sought cabinet's approval and the government's authority to go ahead with the active participation model.

**Senator WONG**—I am interested that you told me that, because, as I recall, at the last estimates we had a fairly large argument about your refusal at that point to answer a question about the timing of something going to cabinet. It appears that you have just volunteered it without me asking. What is the consistency between the answer you have just given and your previous refusal, contrary to the advice of the Senate Clerk, to answer questions about the timing of matters going to cabinet?

**Dr Boxall**—It is completely consistent.

**Senator WONG**—Tell me how that is.

**Dr Boxall**—Because you asked a question about whether other agencies were involved in the discussion on this, and Ms Golightly pointed out to you that the Department of Finance and Administration, amongst others, would have been consulted in the preparation of the active participation model, which forms the body of the cabinet submission.

**Senator WONG**—When was the cabinet submission taken in 2002?

**Dr Boxall**—I do not know when it was taken in 2002. It was part of the budget process.

**Senator WONG**—When was the decision made by cabinet which signed off on the APM?

**Dr Boxall**—Because it is part of the budget process.

**Senator WONG**—I said when, Dr Boxall

**Dr Boxall**—Whenever the budget was brought down. It is part of the budget process.

**Senator WONG**—When was the cabinet decision that signed off on this?

**Dr Boxall**—I do not know and, what is more, the cabinet decision is reflected in the budget process. The government announces the budget on the second Tuesday in May.

**Senator WONG**—Yes. I asked when the cabinet decision was taken prior to May 2002.

**Dr Boxall**—I do not know when it was taken and, what is more, it was announced as part of the budget process. It was part of the government's budget deliberations.

**Senator WONG**—Subsequent to the cabinet decision and announcement in the May budget, was there consultation with Job Network members about them receiving this additional power?

**Ms Caldwell**—There was very extensive consultation with Job Network about the whole of the active participation model that included the introduction of these new arrangements for the highly disadvantaged. It included explaining to them how a job seeker would become highly disadvantaged. To my knowledge there were no separate and distinct discussions about this feature, which was part of the entire fabric of APM.

**Senator WONG**—Did you conduct or did the people in your area, Ms Caldwell and Ms Golightly, conduct those consultations?

**Ms Golightly**—People in outcome 1 would have conducted those consultations.

**Senator WONG**—In the context of that, did any Job Network members or peak bodies raise with you the potential conflict of interest that is arguably inherent in this model?

**Ms Caldwell**—We would have to review the minutes of those particular meetings but we have no recollection of this being flagged at all as an issue.

**Ms Golightly**—We are not aware that they raised that issue. The department, as it does with any proposal, has done a risk assessment and has implemented controls as a result.

**Senator WONG**—When was that risk assessment done?

**Ms Golightly**—It would have been done as part of the whole implementation schedule and examination of the APM.

**Senator WONG**—That is a document?

**Ms Golightly**—I am not sure if it is one document.

**Senator WONG**—Can you provide all documents relating to the risk assessment that you have just described, please?

**Dr Boxall**—We will take that on notice, Senator Wong.

**Senator WONG**—Did the risk assessment suggest any possibility of a conflict of interest in terms of this aspect of the APM?

**Dr Boxall**—We do not know because we have just told you we are not aware that this issue was raised. We have agreed to take on notice whether we can provide the relevant documentation of the risk assessment.

**Senator WONG**—I am actually asking a different question; I am not actually asking about the consulting. I understand your evidence was that it was not raised that you are aware of by Job Network members. I am asking, as a result of the risk assessment the department undertook regarding this change in who could classify job seekers, was the issue of a potential conflict of interest raised?

**Dr Boxall**—It was raised, considered and acted upon just like any other issue, because that is why we have controls in place. Otherwise, if there was no potential to deviate from the contract we would not bother monitoring it and we would not have put controls in place.

**Senator WONG**—I am sure we will be talking about how you have been dealing with those controls, Dr Boxall, but I am interested at this stage in to what extent the conflict of interest was raised. When you say it was raised and considered, can you tell me who considered it? Was it the department or the minister?

**Dr Boxall**—The department was working on implementing the budget decision, which is to formulate the contract for the active participation model and then put it out to tender. It is not an issue of conflict of interest; it is an issue about whether Job Network providers adhere to the contract. Just like any other aspect of the contract, we put in place monitoring and controls.

**Senator WONG**—You do not believe there was any conflict of interest to manage.

**Dr Boxall**—I am saying that the issue was that this is part of the contract, and we put in place controls and mechanisms to make sure that this part of the contract was adhered to.

**Senator WONG**—Would you concede there is a potential conflict of interest but that on your evidence controls were put in place to manage that?

**Dr Boxall**—I am not ceding anything; I am saying that this is one aspect of a contract and that controls and a monitoring regime was put in place to deal with it.

**Senator WONG**—We will come to those.

**Proceedings suspended from 10.45 am to 11.03 a.m.**

**Senator WONG**—I have a question for Ms Golightly or Ms Caldwell. You indicated that the decision to transfer responsibility or allow Job Network members to reclassify people occurred as part of the active participation model decision. Dr Boxall then gave evidence that it was the subject of a cabinet determination prior to the 2002 budget. Were there any alterations between that decision and the actual implementation in July 2003 relating to the powers of Job Network members?

**Ms Golightly**—Not that I am aware of, Senator.

**Senator WONG**—It is actually not a trick question. Perhaps I will tell you what I am trying to find out. I am trying to work out if what cabinet considered then, in terms of who had powers, was what was implemented or whether there were subsequent decisions prior to the implementation of the contract which altered the role of Job Network members.

**Ms Golightly**—I am not aware of any.

**Senator WONG**—Ms Caldwell?

**Ms Caldwell**—No, I am not aware of any either.

**Senator WONG**—I am sure you will clarify that if that is not correct. So this was implemented in July 2003. Did the department from that date track the number of reclassifications which were undertaken by Job Network members?

**Ms Golightly**—As we discussed before, we do have a lot of monitoring going on, and that is one of the things we monitor.

**Senator WONG**—Can you give me some indication of the numbers?

**Ms Caldwell**—The numbers, as is expected with any new contract arrangement, have grown progressively over time. The numbers also include all accesses to the JSC instrument. So our monitoring shows us how often a Job Network member has checked the JSCI, and checked it for accuracy. They don't separately identify whether a particular data item on each access was changed.

**Senator WONG**—Does that mean you don't track the number of job seekers who Job Network members have altered classification for?

**Ms Caldwell**—No, that was not my evidence, Senator. You asked me how often Job Network had used the JSCI, and I am saying that we know with precision how often they check the update of the JSCI for accuracy. We also then look at the number of job seekers who move from either Centrelink or Job Network intervention.

**Senator WONG**—What I want to know is whether, post the July 2003 change, the department tracked how many job seekers were the subject of a change in classification as a result of the Job Network member updating or reviewing the JSCI.

**Ms Caldwell**—Yes.

**Senator WONG**—You do track that. On a monthly basis?

**Ms Caldwell**—Yes, Senator, we could break them down in that way.

**Senator WONG**—Or on an annual basis; I don't mind. How do you track the data?

**Ms Caldwell**—We can slice and dice it any way—

**Dr Boxall**—No, how do you track it?

**Ms Caldwell**—Each transaction is obviously recorded at the time that it is made. Therefore we are able to analyse it for trends and changes over time for any particular time period.

**Senator WONG**—What was your process for analysing that data? Did you track monthly figures, quarterly figures? The dataset I am talking about is the one I outlined originally, which is the number of job seekers who had their classification changed as a result of a Job Network member's updating or reclassification.

**Ms Golightly**—Can I clarify this: we don't necessarily do everything at the end of every month. What Ms Caldwell is saying is that when we do look at a particular item, whether it be this one or anything else, we can cut and slice the data in any way that we would like.

**Senator WONG**—I understand that. I am asking what you did. So I am asking: post July 2003, what were the monitoring procedures within the department? How often did the department look at the total number of job seekers that any particular Job Network member had reclassified in accordance with the process we have discussed?

**Ms Golightly**—Basically we have been looking at it continuously.

**Senator WONG**—I knew you would say ‘continuously’. Is there a system in place? Do you do it every month or every quarter? How often does your system mean that you actually look at this data?

**Dr Boxall**—We get real-time information, so there could be some data that cropped up this morning that somebody is analysing at this point.

**Senator WONG**—But do you necessarily look at the data and do you necessarily collate it? The evidence that Ms Caldwell or Ms Golightly gave is that you monitor trends. How did you monitor that trend? Did you look at the data over a time period? Did you look at it every day? Did you collate it every quarter? What was the process of monitoring the number of job seekers whose classification was changed?

**Dr Boxall**—The process is as Ms Golightly and Ms Caldwell said—we can slice and dice it any way. It is real-time data. We analyse it as it comes in. If the relevant contract monitoring officer or contract management officer detects an issue, they look into it. Obviously, the trend is anything from 1 July to the present.

**Senator WONG**—How did you become aware of any change in the trend or what the trend was?

**Dr Boxall**—Because the department observed a number of upgrades being undertaken, and the department proceeded to investigate that as a contract management issue.

**Senator WONG**—When did the department observe that?

**Ms Golightly**—I have to be a little careful, but the department started particularly investigating an upward trend in around April or May last year, from memory.

**Senator WONG**—That is April or May 2005?

**Ms Golightly**—Yes.

**Senator WONG**—I will go back a bit. Would you be able to supply the committee with data regarding the number of upgrades? What would be feasible for the department?

**Ms Golightly**—I would need to take that on notice.

**Senator WONG**—I am trying to have a dialogue here because I do not want to ask a question on notice that we then have a blue about or that is really too time-consuming for the department. What I am saying is that I would like to see trend data. I would prefer a monthly figure about the total number of upgrades. If that is not possible, could we do quarterly since July 2003 to date.

**Dr Boxall**—We can provide a monthly figure, but we need to take that on notice because these issues are relevant for the investigations that are under way.

**Senator WONG**—I am not asking that I be advised of which Job Network members. I appreciate that. I do not want to trouble any investigation. I am asking for raw data without identification of agencies. I hope I do not have to indicate to the department that this is an issue of public concern. It is a substantial amount of public money that is paid to the Job Network, and there are some serious allegations. I do not want to pre-empt any investigation but I think it is reasonable for the estimates committee to be provided with data about how many people were in fact upgraded under this new system.

**Ms Golightly**—I am more or less sure I could give it to you quarterly on a global basis. It would possibly even be monthly, but I will check that.

**Senator WONG**—I would appreciate that. What sort of numbers are we talking about? For example, when it was first brought to your attention, are we talking tens or hundreds or thousands?

**Ms Golightly**—There is a difference between what might have happened in the global figures and what might have happened for particular providers.

**Senator WONG**—Without identifying any provider, is it the case that what the department noticed was trends in relation to a particular providers rather than a global trend? Would that be accurate?

**Ms Golightly**—I think that would be accurate.

**Dr Boxall**—Contract management and contract monitoring goes on with each provider as part of their contract.

**Senator WONG**—Again, going back to the global figure, what sort of numbers are we talking about?

**Ms Golightly**—Ms Caldwell has just advised me that 24 per cent of the changes are actually upgrades, as a global figure.

**Senator WONG**—What proportion of the changes are initiated by Job Network members as opposed to Centrelink?

**Ms Golightly**—These are the Job Network figures.

**Senator WONG**—Does that mean the other 76 per cent were downgrades or just an updating of information?

**Ms Golightly**—It could have been either of those two things.

**Senator WONG**—You do not disaggregate that?

**Ms Golightly**—I do not have that here.

**Senator WONG**—How many people are we talking about—24 per cent of how many?

**Ms Caldwell**—The 24 per cent means that the Job Network member updates the accurate accuracy of the information and, three out of four times, there is no change in the person's status or there is indeed a downgrade. In the approximately one in four cases that Ms Golightly spoke of, there may be a change across whether a person is HD or not HD. You also asked the proportion of numbers. It remains the case that the overwhelming number of JSCI creations and updates are done by its Centrelink rather than by Job Network members.

**Dr Boxall**—It is important to emphasise for the committee that these are global figures.

**Senator WONG**—I appreciate that. I am asking what the 25 per cent is of. How many?

**Ms Golightly**—Approximately 155,000.

**Senator WONG**—So there have been 155,000 changes—

**Ms Golightly**—That is since July 2003—since the beginning of this contract.

**Senator WONG**—Since July 2003 there have been 155,000 changes to the JSCI by Job Network members, of which 24 per cent are upgrades?

**Ms Golightly**—That is correct.

**Senator WONG**—By the way, the question about guidelines, et cetera, for the Job Network members in updating the JSCI: have you been able to obtain any of those?

**Ms Golightly**—We have got some more. We are just waiting for another copy to be faxed, and we should be able to table it then.

**Senator WONG**—When Dr Boxall said that the issue of conflict of interest was raised, considered and acted upon, and therefore monitoring procedures, et cetera, were put in place—

**Dr Boxall**—Actually, I did not say that, because I did not use the term ‘conflict of interest’.

**Senator WONG**—No, sorry. It was in a response to my question, ‘Was the issue of conflict of interest raised?’ I believe you said—and I am happy to check the *Hansard* record—that it was raised, it was dealt with, considered, and then you put in place procedures.

**Dr Boxall**—I would like to say that it is not an issue of conflict of interest. It is an issue of monitoring a contract. There are various aspects of the contract where the government pays for outcomes. For example, the government pays for job placements. A Job Network member will say, ‘We have placed 10 people,’ and then we pay for the 10 people. In the event that the Job Network member placed only eight—which means that they would not be entitled—that would be an issue that we would take up in a contract management sense. This is a similar issue.

**Senator WONG**—The changes that were implemented by the government allowed an organisation to make a decision which could have a direct positive financial benefit for them. Is it your evidence that you do not believe there is any conflict of interest in such a system to manage?

**Dr Boxall**—It is my evidence that we do not regard that as a conflict of interest. The department does not categorise that as a conflict of interest. The department categorises that as one aspect of a contract which is to be monitored—

**Ms Golightly**—And if we find there is a problem, there are remedies under the contract.

**Senator WONG**—I appreciate that you say there are monitoring processes, and I want to come to those shortly. Frankly, Dr Boxall, I find extraordinary the assertion that there is no conflict of interest even to manage. What you are talking about is an organisation having the power to increase the payments to it, from its own decision. Clearly there is a conflict of interest which has to be managed.

**Dr Boxall**—The department is struggling to see the difference between—

**Senator Abetz**—I am not sure where this is leading us. There is a stack of government contracts. If we take the most basic one of ‘roadworks’, a company tenders to undertake roadworks at a certain price that the government signs off on. If it can do the job cheaper, within the parameters of the contract, that is their good fortune. But if they cheat by not providing the appropriate gravel or whatever, under contract management one would expect the state government department to check to ensure that it was undertaken according to the standards of the contract. Otherwise, if you were to take Senator Wong’s line, every single contract the government enters into has this potential of conflict of interest. It is like the carpet supplied to this parliament. I think there is a requirement that it be Australian made. If somebody were to supply a non-Australian made carpet, is that a conflict of interest? The only way you would not have this conflict of interest would be if government never dealt with the private sector.

**Senator WONG**—Minister, there is a very big difference between the hypothetical contracts to which you have alluded, and this situation. A Job Network member has the ability to classify someone as more highly disadvantaged, and the evidence is that a quarter of the changes that they have undertaken have led to that situation. If a person is classified as more highly disadvantaged, the Job Network member receives more taxpayer funding for the service provided.

What you are saying is that the government does not believe that there is a conflict of interest when it says to an external, private organisation, ‘You determine effectively how much money we pay you.’ It is not a request for tender situation at all.

**Senator Abetz**—Another example would be if a department were to seek legal advice on a matter from a private provider and they then overcharged. Would you say that was a conflict of interest because they were in charge of their own charging regime and they submitted a bill to the government? I think Senator Wong is drawing a very long bow. She has made her debating point and the department does not accept it.

**Senator WONG**—I was actually responding to your point, Minister.

**Senator Abetz**—I was referring to the debating point at the very beginning about the conflict of interest. It is not accepted and I suggest that we move on.

**Senator WONG**—Minister, you have responded to me. The issue here is that the government has made a decision about the level of disadvantage of a job seeker and the government has then allowed them to be altered by an organisation that has a financial interest in assessing the person as having a higher level of disadvantage. So, yes, I do think there is a conflict of interest there. If the assertion is that it was managed, we can have that discussion. But it seems quite clear that you have put in place a system where there is a potential incentive for a Job Network member to increase someone’s level of disadvantage in terms of the classification.

**CHAIR**—I am assuming at this point—and you may clarify this if you want, Dr Boxall—that a highly disadvantaged person would need the Job Network provider to provide more resources and therefore that would possibly be the reason for the higher payment.



**Dr Boxall**—Exactly.

**CHAIR**—Senator Wong, you have made your point. Dr Boxall has said there is no conflict of interest. Could we now go on with the line of questioning, please.

**Senator WONG**—Of the 155,000, were DEWR managers required to sign off or approve each of those updates?

**Ms Golightly**—No.

**Senator WONG**—What about the 24 per cent?

**Ms Golightly**—No, it is done through contract monitoring.

**Senator WONG**—What do the contract managers do in that monitoring? Are they required to look at the 24 per cent?

**Dr Boxall**—In the event that the contract managers detect or become aware of behaviour by a certain Job Network member, they will go out and seek documentation and verification and check whether the upgrade that was undertaken is a bone fide upgrade or not. That is a normal contract management approach.

**Senator WONG**—I am trying to clarify whether there was a system in place that automatically required the contract manager to sign off or do something to verify an upgrade.

**Dr Boxall**—The testimony from Ms Golightly is that DEWR does not sign off on individual upgrades.

**Senator WONG**—So the contract manager would only investigate an upgrade if they determined there was a reason to do so and that reason might be a particular pattern or spike in the update?

**Dr Boxall**—That is possible. They also have routine contract management visits, even though there may be no evidence whatsoever of a change of behaviour or anything else which might lead a contract manager to ask questions. They are covered off in the routine contract management as well as in the more special contract management visits when they think there is an issue to be investigated.

**Senator WONG**—Ms Golightly, in your evidence when you referred to April-May, was that 2004 or 2005?

**Ms Golightly**—2005.

**Senator WONG**—It was at that time that DEWR had some concerns about the pattern of upgrades.

**Ms Golightly**—For some providers.

**Senator WONG**—As a result of that, were any investigations undertaken by DEWR?

**Dr Boxall**—I think it would be best if we answered these questions in a general sense as to process rather than what may or may not have taken place with providers who have self-identified themselves recently in the press. There is a well-established process, involving the contract manager and the monitoring team, for all contract management issues. In the event that there is a dispute or an issue with regard to payment for contract, such as—these things can be quite minimal—somebody might have put in a claim for the placement of 10 job

seekers and then they discovered it was really nine or 11, then there needs to be some investigation. During that investigation, often in the event there has been an overpayment or an underpayment, that is usually rectified voluntarily by either party.

If there has been a case where there has been contact management such that, within the contract, the department should take out remedies, then the department would sanction the provider. That is the civil line. The criminal line is that, in the event, as part of these investigations, the department discovers that there may be a possibility of fraud or other criminal doings, then the matter is referred to our investigations branch. In the event there is sufficient evidence, it is referred to the DPP.

**Senator WONG**—Dr Boxall, I am going to continue to ask questions. If you are going to decline to answer them on a particular basis, I would certainly appreciate if you could indicate why. I do not want details of particular investigations, but I think that this committee, given the millions of taxpayer dollars involved, is entitled to ask questions about what action this department has taken. What I would like to know is: how many providers have been investigated by the department?

**Dr Boxall**—Very few. Less than a handful.

**Senator WONG**—I would like to know the number.

**Dr Boxall**—To the point to which you are obviously questioning, in the case of these JSCI upgrades, there are fewer than five being investigated currently.

**Senator WONG**—How many were previously investigated?

**Mr Manthorpe**—There is a small number where trend data suggested that we should have a look at the way in which upgrades were being done. With respect to some of those, no issues have actually been found. The trend data have suggested there are quite a few, but when we have looked at those, we have found that there is no problem. They have been appropriate upgrades. There are a small number that are currently being investigated, and then there are a small number of others which have experienced an examination of that kind.

**Senator WONG**—Could we just check the process again. You noticed these trend patterns in April-May last year. As a result of that, what did the department do? Were contract managers asked to investigate particular trend patterns with those Job Network members? Is that what occurred?

**Dr Boxall**—No. A contract manager would have noticed a spike for a particular provider. This is very important. There are very few providers. There are 107 Job Network providers. We are talking about a current investigation of four—fewer than five—providers. What would have happened is that the contract manager and staff working on one of the fewer than five providers would have noticed. They would have gone along and asked questions. In the course of asking questions and in consulting with the Job Network provider, it might have been established that some of the upgrades were not bona fide, not appropriate, so moneys were recovered.

Then the issue is the imposition or not of sanctions under the civil process. The issue is also whether there was sufficient evidence uncovered during those discussions that would require

a referral to our investigations branch and, depending on the outcome of the investigations branch work, the possibility of referral to DPP.

**Senator WONG**—In terms of process, a matter is only referred to the investigations branch in what circumstances—potential criminal investigation?

**Dr Boxall**—In the event that there are allegations that there is potential for fraud. Often contract management issues which are dealt with are just mistakes and so the whole thing is righted on the spot. Sometimes the mistakes are so minor that we would not even seek to impose a sanction. In the event that, as part of that discussion, the contract manager and the staff involved suspect fraudulent activity by a member of the Job Network member's staff or possibly systemic fraudulent activity, then it is referred for evaluation to the investigations branch. The investigations branch evaluates it and, if there is sufficient material to indicate that we should take action, it is then fully investigated and a brief is prepared for the DPP.

**Senator WONG**—My recollection, Mr Manthorpe, from previous discussions of these issues is that you said you had contract managers in various states. Is that right?

**Mr Manthorpe**—That is right.

**Senator WONG**—And then there are people within your unit—a small number here in Canberra—

**Mr Manthorpe**—Yes.

**Senator WONG**—who are line managers for the state contract managers. Is that right?

**Ms Golightly**—No, Senator. The line manager for the state contract managers is the state manager. The line managers we have here look after the program as a whole.

**Senator WONG**—Okay. Was there an instruction given to the state managers to investigate more generally, or was there an instruction given to investigate particular trends? How were contract managers alerted to this issue more generally?

**Dr Boxall**—As part of our general modus operandi, we have the state managers come to Canberra every four weeks and we have continuous contact between the contract management branch in Canberra and the state managers. One of those contacts was a discussion with the various state managers on particular providers, and the ensuing contract management discussions with the providers took place.

**Senator WONG**—When did that discussion occur?

**Ms Golightly**—More or less immediately following the trend we noticed in April-May.

**Senator WONG**—I understand a number of these were investigated—I do not like to use the term 'investigated', because I am not suggesting anything about what the investigations branch did. So a number were looked into by contract managers, but I understand, Mr Manthorpe, from your evidence, that in a number of them it was determined there was nothing untoward happening.

**Mr Manthorpe**—That is right.

**Senator WONG**—But I would like to know how many providers were the subject of that investigation.

**Mr Manthorpe**—I do not have a number but I can confirm it is a small proportion of Job Network members.

**Senator WONG**—You do not have a number. How many providers were there concerns about in terms of the trend data?

**Dr Boxall**—It is not a question of concern, Senator Wong, because—

**Senator WONG**—You had a meeting where you asked people to look at providers; I am only asking how many providers were the subject of that.

**Dr Boxall**—No, you asked how many providers there were about which we had concerns. We did not have concerns with the whole lot. Just because contract managers have a discussion with a provider does not mean to say that we have concerns.

**Senator WONG**—In relation to how many providers were contract managers asked to have a discussion as a result of the trend data issues you have raised?

**Ms Golightly**—I do not have the number here, but it was very few.

**Senator WONG**—All right.

**Mr Manthorpe**—I do not have a number either, Senator.

**Senator WONG**—Does anybody have a number? This is fairly obvious, frankly, given what is in the public arena that this was going to be an area of questioning.

**Ms Golightly**—Senator, what is in the—

**Dr Boxall**—No—

**Senator WONG**—Yes, Dr Boxall wants you to be quiet, Ms Golightly. He wants to answer the question.

**Dr Boxall**—No, I do not, because it is not a question.

**Senator WONG**—In relation to how many providers were contract managers asked to consider and investigate the issue of upgrades at the April-May meeting?

**Dr Boxall**—The question is that we do not know—a very small number.

**Senator WONG**—You don't know?

**Dr Boxall**—That is what I am told—we do not have a number.

**Senator WONG**—Are you able to obtain that? This is about your contract management of a very large contract involving a lot of public money, Dr Boxall. I would have thought it is a reasonable question to ask about how many people you had concerns and how those investigations were undertaken.

**Dr Boxall**—Senator Wong, the issue is that in a number of the discussions which take place with contractor providers such as Job Network members there is no reason to suspect any wrongdoing, and just because we have discussions with them does not mean to say we think there might be a problem. You asked earlier how many providers were being investigated—I think that was the word—or examined under the contract management, and I said currently less than five.

**Senator WONG**—No, no, you said five or four, but you did actually put on the public record four, so I thank you for that—four were the subject of a current investigation. But I am asking about how many previously went through this contract management process that various people have given evidence about. You noticed a spike in April-May, you had a meeting with contract managers and you asked them to have discussion with a number of providers. I accept Mr Manthorpe's evidence that in relation to a number of providers there was nothing untoward determined. I am just trying to get a sense of the numbers.

**Senator Abetz**—But, Senator Wong, clearly the case is that whilst there might be concerns—I think to use your term—after looking into those concerns it may well be that they were in fact misplaced. Therefore, for you to expect the department to have the figures of all the concerns that were expressed would be misleading and, with respect, certain people—I would not accuse you of it, Senator Wong—would seek to make mischief by saying there were X number of concerns out of X number of Network providers and would take the egg beater to it, when a lot of those concerns may well have been misplaced, or innocent errors by the contract managers or, indeed, by the provider. So just because there was an expression of concern initially, I do not think this takes the public debate on this anywhere.

**Senator WONG**—When you noticed spikes in April-May, in relation to how many Job Network members were spikes or unusual trend patterns noticed?

**Ms Golightly**—Very few.

**Senator WONG**—How many is very few? Are we talking less than 10?

**Ms Golightly**—I would imagine so, Senator. I just do not have the figure.

**Senator WONG**—Are you able to obtain that?

**Dr Boxall**—It is the same question, Madam Chair, as before. Ms Golightly has testified that it is very few.

**Senator WONG**—Okay, so the Government does not want to disclose how many Job Network members were investigated or examined by DEWR for having unusual trend patterns in terms of upgrades. That is what is happening here—

**Senator Abetz**—No, wait a minute, there is a big difference—

**Senator WONG**—You do not want to tell people how many providers were examined as part of the contract management process.

**Senator Abetz**—No, you have been told numerous times the difference between the term 'investigation'—that that has a particular meaning—and whether somebody under normal contract management procedures looks into or has a discussion about matters. We as a government have no concern about the operation of these contracts; we have confidence in the contract management and, when there are genuine concerns, you have been told that that procedure gets escalated, and you have been told that less than five have been submitted to investigation.

**Senator WONG**—No, I think the evidence was that there were four under current investigations. Were there any other matters where the concerns were not dismissed or were

not resolved by the first discussion with the contract manager and further examination or investigation was required but has now been finalised?

**Senator Abetz**—From what date?

**Senator WONG**—From the date this was first noticed—in April-May 2005.

**Mr O’Sullivan**—I think we are going to have to exercise some caution here for these reasons, which I will explain now. It is possible—it is not anticipated—that the subject matter of your questions may well be examined in court proceedings. The reason why I would ask you to exercise some caution in this regard is your questions and our answers in relation to this subject matter would be unexaminable in any subsequent court proceedings.

**Senator WONG**—Could you hold on a minute, Mr O’Sullivan? You raised an issue and I am just asking to get some advice on the answer.

**Senator Abetz**—What is the hold-up here?

**CHAIR**—I think Senator Wong is just clarifying an answer that was given. What are you verifying, Senator Wong?

**Senator WONG**—Sorry, can you just give me 30 seconds, Madam Chair? Mr O’Sullivan—

**Mr O’Sullivan**—I was just explaining the caution we are going to have to take from here on in if you continue with this line of questioning. The subject matter of your questions and our answers may well, if subsequent legal proceedings are entered into and become the subject of court proceedings, be unexaminable because of parliamentary privilege in any court proceedings. What that means is it raises the potential that the defence, for want of a better word, could argue that their inability to adduce in evidence your questions and our answers might prejudice their ability to obtain a fair trial. That is particularly relevant in relation to any criminal proceedings.

**Senator WONG**—I suppose there are two issues: one is I am not actually asking any identifiable questions in terms of individual providers; and the second is I will seek some advice from the Clerk about the issue of privilege. There is a third issue, which is if I were to consider that, it would seem to me reasonable that the department should indicate if criminal proceedings are in fact contemplated; otherwise what you are asking me to do is not go near an area in case you might. At this stage, I was asking about the number of providers who were examined—I use that phrase because I understand ‘investigation’ is a different phrase—and that includes providers who have not even been referred to your investigations unit. Included in that group are the group that Mr Manthorpe said there were no concerns about, so I can hardly see how possible criminal proceedings could be pending in relation to those people.

**CHAIR**—Nevertheless, I think that Mr O’Sullivan’s remarks are very relevant and I would ask you to exercise caution.

**Senator WONG**—I always exercise caution, Madam Chair. Where were we? Minister, I am asking you to provide evidence to the committee or allow the department to provide evidence as to how many Job Network members were examined as a result of DEWR having some concern over their trend in upgrading job seekers.

**Senator Abetz**—Senator Wong, as I tried to indicate earlier, that is a very open-ended question. First of all, what do you call a spike? Is a spike any increase—

**Senator WONG**—These are the very few that Ms Golightly has already given evidence about, Senator Abetz. It is not an open-ended question. Your officials have already given evidence about this.

**Senator Abetz**—No. It depends on your definition of what spike means.

**Senator WONG**—It is not my term; it is the department's word, Minister.

**Senator Abetz**—Potentially, you could argue that an increase of one is a spike. Or does it have to be a certain height on the graph before it becomes a spike? Somebody who manages a contract may say, 'Yes, there has been increase here,' and have a chat and not even bother really examining it. To glean information and to then say that so many Job Network providers were examined would, I think, misrepresent the true position.

**Senator WONG**—Clearly, you are not going to provide that. Is that what you are saying?

**Senator Abetz**—I am saying that it is far too open ended.

**Senator WONG**—It is not open ended. The department has already given evidence about there being a few; it just will not disclose the number. On the issue of the spike, I am not interested in creating a definition of that; that is the department's word. They are the ones that noticed the spike. Clearly, it is up to them to determine who would be regarded as—

**Dr Boxall**—Actually, Madam Chair, I may stand corrected, but I do not think that we used the word 'spike'.

**Senator WONG**—Perhaps it was 'trend' or 'different trend'. Ms Caldwell or Ms Golightly—I do not recall which of them—gave evidence about trends in April 2005 which were noticed. That is what I am interested in.

**Dr Boxall**—That is correct. And that is not the word 'spike'.

**Senator WONG**—What would you call it, Dr Boxall?

**Dr Boxall**—I would say that Ms Golightly and Ms Caldwell were talking about an analysis of the data where there was some evidence of a trend.

**Senator WONG**—Was an increase in the number of upgrades performed by a number of Job Network members noticed?

**Ms Golightly**—I am sorry, Senator, I did quite hear the second part of your question.

**Senator WONG**—Was there an increase in the number of upgrades performed by particular Job Network members which led to the meeting in April-May?

**Ms Golightly**—It is the case that we noticed a trend in the upgrades.

**Senator WONG**—For particular providers?

**Ms Golightly**—That is right.

**Senator WONG**—I think I asked a question before about whether or not there were any investigations which had been undertaken and completed. I use the word 'investigations' in the context that Dr Boxall uses it.

**Dr Boxall**—We have less than five, which was mentioned—

**Senator WONG**—They are current, Dr Boxall; I am asking about ones that have been finalised.

**Dr Boxall**—There have been examinations and discussions finalised ever since the start of Job Network. This is a continuous—

**Senator WONG**—Yes, there is a lot of continuous activity—

**Dr Boxall**—That is correct.

**Senator WONG**—but it does not appear to have stopped around \$13 million so far being paid incorrectly. I am a little tired of the ‘continuously’ answer; it is a very simple question.

**Dr Boxall**—Would you mind repeating the question?

**Senator WONG**—Have there been other investigations, subsequent to April-May 2005, which have been completed? Not examinations—actual investigations.

**Dr Boxall**—I am advised that the answer is no.

**Senator WONG**—There are four current investigations. Have any of those been finalised?

**Ms Golightly**—No.

**Senator WONG**—Going back to the examinations, and putting aside those four, was there any money repaid by Job Network members as a result of those examinations and discussions between contract managers and Job Network members?

**Ms Caldwell**—Yes. There would have been some initial recoveries from the earlier stage and as part of our routine monitoring as well. So, when we first went out in April-May of last year, any claims that came to our attention at that time that needed recovery we would have dealt with at that stage.

**Senator WONG**—To date, how much money relating to the upgrade issue has been recovered from or repaid by Job Network members since April-May?

**Ms Golightly**—I will need to take that on notice.

**Senator WONG**—You do not know.

**Ms Golightly**—I do not have the figure with me.

**Senator WONG**—You do not have the figure of how much money has been repaid as a result of upgrades?

**Senator Abetz**—You got her answer.

**Dr Boxall**—That is her testimony.

**Senator WONG**—When can you get that by, Ms Golightly?

**Ms Golightly**—I would hope today, Senator. I will try and confirm that for you.

**Senator WONG**—A fair bit of it is in the public arena. You could just add on to what has been in the public arena, unless that is incorrect.

**Dr Boxall**—We are not going to comment on what is in the public arena.



**Senator WONG**—I would not have thought so, Dr Boxall. But I would have thought, given this issue has been an issue of public concern, that the department could have come with figures about how much taxpayers' money has had to be paid back.

**Dr Boxall**—The department has come well prepared for the questions. If you would like to place the questions on notice—

**Senator WONG**—I do not want them on notice.

**Dr Boxall**—Senator Wong, if you want to put questions on notice before Senate estimates, then we will come with the exact figures you want. The testimony is that we do have that figure with us, and Ms Golightly has undertaken to get it.

**Senator WONG**—I would like to return to this issue after lunch, Ms Golightly. Would it be possible for you to obtain that information in that time frame?

**Ms Golightly**—We are checking right this minute.

**Senator WONG**—Thank you very much. I would like to go back to the 24 per cent issue. When Centrelink was the only body able to determine the classification level, but there was that process we discussed earlier in the hearing about how a Job Network member could liaise with Centrelink or request an upgrade, what proportion of changes to the JSCI in that period were upgrades?

**Ms Golightly**—I would have to get that number for you too. I think I also need to clarify that, as Ms Caldwell mentioned, the arrangements under the APM were markedly different prior to that, so the comparison would not be direct anyway, including that the classification of HD, for example, did not exist before 2003. So it is not comparable.

**Senator WONG**—I understand the disclaimer, but I would still like that figure.

**Ms Golightly**—If we can get it. It would have been Centrelink data in those days. I am not sure if we can.

**Senator WONG**—But you still would have tracked that, no?

**Ms Golightly**—As I think Mr Manthorpe gave evidence, we did have KPIs. I am just not sure if they went to absolute figures or were percentage figures.

**Mr Manthorpe**—The KPIs went to the accuracy and timeliness of the JSCI application by Centrelink. They did not measure the incidence of an upgrade in the JSCI per se. But we may be able to access data on that.

**Senator WONG**—If you are not, I suppose I could also ask Centrelink. Presumably they would have kept that data. This is pre-2003.

**Ms Golightly**—Yes. I could not comment on their systems.

**Senator WONG**—Fair enough. There have also been allegations in the public arena about moneys having to be paid back by a particular Job Network member for other reasons unrelated to the upgrade. I assume on occasion that does happen, that Job Network members are required to pay money back for non upgrade related reasons.

**Ms Golightly**—Certainly. I think Dr Boxall mentioned before that often there is a mistake made, they will notify us straightaway and whatever action needs to be taken is taken. It happens all the time.

**Senator WONG**—It happens?

**Ms Golightly**—On this matter or any. Sometimes a claim is made that was erroneous for some reason.

**Senator WONG**—So that is not an uncommon event.

**Ms Golightly**—I suppose it goes to your definition of uncommon. But it does happen from time to time.

**Ms Caldwell**—Senator, we have over 800,000 job seekers in service at any stage. As you know, we have large numbers of placements, over half a million placements and outcomes every year, so there is quite a large number of transactions that need this scrutiny.

**Senator WONG**—Is there also a process of self-auditing that some providers go through as part of their discussions with you?

**Ms Golightly**—Going back to the general process that Dr Boxall was outlining before, it may well be part of a general examination that an organisation undertakes a self-audit.

**Senator WONG**—How many organisations have undertaken self-audits since April-May 2005?

**Ms Golightly**—I could not give you that figure because they may do it of their own accord and we might not know about it.

**Senator WONG**—I am sorry; I meant: of which DEWR is aware.

**Ms Golightly**—I would have to come back to you on that.

**Ms Caldwell**—We would not normally categorise in our data whether it was a self-audit matter. In fact, in most of our contract management activities, there is a dialogue between DEWR, the contract manager and the Job Network member. So we may select a random target or we may take a particular class of activities. Almost by definition we are always working closely with and asking the JNM to undertake part of the tasks of bringing to our attention the substantiating information about it. So self-audit versus non-self-audit is not a natural distinction in our practices.

**Senator WONG**—So there may be money paid back as a result of self-audit or as a result of the engagement through the contract management process. Aside from these issues of the upgrades, that is a reasonably normal part of your contract management process—is that correct?

**Ms Golightly**—It is the normal process that would be followed if such an event occurred.

**Senator WONG**—And it does occur?

**Ms Golightly**—It does, yes.

**Senator WONG**—I think I asked how much money has had to be repaid as a result of the upgrades, and you are taking that on notice.

**Ms Golightly**—I just have to talk carefully again because it may go to a matter of investigation.

**Senator WONG**—I am not asking what is going to occur from here; I am asking about public money that has been repaid to this department since April-May 2005 as a result of incorrect upgrades.

**Ms Golightly**—That is what I have taken on notice, yes.

**Senator WONG**—I am also asking for the number of providers.

**Ms Golightly**—I will take that on notice too.

**Senator WONG**—You do not have that?

**Ms Golightly**—No.

**Senator WONG**—You do not have the number of providers who have had to repay money?

**Dr Boxall**—No.

**Senator WONG**—There are a lot of things you do not have today, Dr Boxall.

**Senator Abetz**—That is very helpful.

**Dr Boxall**—We have a huge amount of material.

**Senator WONG**—I think this has been a matter in the—

**CHAIR**—The officers are making every effort to provide you with what you do need.

**Senator WONG**—With respect, Chair, given that this matter is in the public arena, there is a lot of information that the department does not seem to be able to provide today, including how much taxpayers' money has had to be repaid because of inappropriate classification by the Job Network. It is a fairly simple question.

**CHAIR**—I think Dr Boxall has given the undertaking that he will provide that when available.

**Senator Abetz**—Trying to predict that which will excite Senator Wong's mind is very difficult. I would have thought the department is doing a very good job.

**Senator WONG**—They could have just read the front page of the papers.

**CHAIR**—Perhaps we will proceed with questions.

**Senator WONG**—'Trying to predict what will excite Senator Wong's mind is unpredictable' is an interesting statement.

**CHAIR**—Moving right along, Senator.

**Senator WONG**—I could say: 'Right back at you, Minister.'

**Senator Abetz**—What did you say? I was talking to Gavin so it went over my head, sorry.

**Senator WONG**—How are we with the guidelines, Ms Golightly?

**Ms Golightly**—We have the guidelines which were available at the beginning of the APM, July 2003, and also the current guidelines. There were many updates in between. I do not have those yet but I am happy to table what we do have, if that will assist.

**Senator WONG**—I would appreciate if you could table what you have today. When the APM was introduced, did DEWR ever envisage that what has occurred would occur—that there might be Job Network members who would accidentally or purposely misclassify people?

**Ms Golightly**—There are a number of things in the contract which could lead to obviously financial claims on behalf of the Job Network as well as service delivery. So what we have identified is controls for each one of those to make sure that we know what is going on and that everything is being done appropriately.

**Senator WONG**—So DEWR was alive to the possibility, firstly, that Job Network members might accidentally misclassify people?

**Ms Golightly**—Job Network members might accidentally do a number of things.

**Senator WONG**—I am asking about this: were you alive to the possibility that a misclassification may have occurred?

**Ms Golightly**—Since we have controls and monitoring for this, I think that that indicates that we were.

**Senator WONG**—And you were alive to the possibility that there might be an intentional misclassification?

**Ms Golightly**—There is the possibility for intentional things in a lot of what we do—whether it is this contract or any other—and so we control against it.

**Senator Abetz**—Why do you have contract managers? To manage the contracts, to make sure they are abiding by the terms of the contracts. So one would imagine that their appointment would indicate that the department is alive to the possibility of errors occurring and therefore they were appointed to protect the taxpayers' interests.

**Senator WONG**—What is the answer to the question 'Were you alive to the possibility the Job Network members might purposely misclassify people?'

**Ms Golightly**—We are alive to many possibilities—

**Senator WONG**—Including this one?

**Ms Golightly**—whether it is in this contract or any other—including this one.

**Senator WONG**—What was put in place to ensure that did not happen?

**Ms Golightly**—There is the contract monitoring that we have explained before. There are also quite significant remedies under the contract and sanctions available to us as a deterrent.

**Mr Manthorpe**—In addition, there are quite explicit conditions in the contract around the way in which we expect Job Network members to conduct themselves. For example, the provider must ensure that an eligible job seeker's details are accurately and completely recorded on DEWR's information systems and that all data entered on DEWR's information systems is complete and accurate, and matters of that kind.

**Senator WONG**—I am still having trouble with this. I am sure Senator Abetz will enjoy this. I just do not understand how this all works. You say you have access to real-time data. You keep using phrases like ‘contract monitoring’ and ‘continuously’ looking at things, but what is the system? Do you have a process where there is a regular interrogation of the data set to determine trends? Are people told: ‘You are the contract manager for these people and this is your process: every month or every quarter you should check or interrogate data to look at these trends or this data set’? What are the directions to contract managers to ensure the monitoring is of a high standard?

**Ms Golightly**—Perhaps I can start and then Mr Manthorpe, who looks after the contract management area, can add any more detail. There is any level of tools and data sets and cuts of data that we can look at, whether it be on a daily, monthly, quarterly or yearly basis. There are things that our contract managers can look at very regularly—every day, if they like—and there are things that we do at a national level that also complement or add to the information that we have about the performance of the Job Network. Our contract managers, as a general rule, have the responsibility to make sure that performance under the contract is what is expected and indeed is maximised.

**Senator WONG**—Ms Golightly, we yet again have a whole range of phrases, and that is fine. But I am trying to work out: if I am a contract manager in the state of South Australia, what are my instructions about how I monitor the contract? You said there is any level of tools or data sets available. That is true, but I suppose they are only as good as how they used—correct? Then there is whether they are actually accessed. What is the indication? Do you have to have a monthly process or a weekly process? How do you stay on top of these fantastic data sets and data tools that you have to ensure that the contract is monitored properly?

**Ms Golightly**—That is the sole job of the contract manager. They are provided with the training, knowledge and instructions that enable them to do that job. We also have people here in national office who look regularly—sometimes it might be weekly; sometimes it might be monthly—at various parts of the contract. Mr Manthorpe might be able to add to that.

**Mr Manthorpe**—There are some extra things that might help you get a handle on this. I suppose this all starts with the contract, and there are quite clear provisions in the contract that have to be managed and worked with. On top of that, we provide to our contract managers advice on what areas of risk we would like to have a focus on in their contract management activity at a national level. We provide them with tools to help them examine, check and monitor those risks. We expect them to produce risk plans for each provider in accordance with the risk tool, which I think we might have talked about at the estimates before last, which complies with the Australian standards on risk management. We ask them, in producing their risk plans, to also produce a monitoring strategy associated with or that correlates with the level of risk they might be identifying in a particular provider. We ask them to look at performance issues, financial issues and a variety of other categories of risk, and to monitor those.

**Senator WONG**—Was there any requirement that contract managers regularly check trend data for updates or upgrades?

**Mr Manthorpe**—There is such a requirement.

**Senator WONG**—What is the requirement?

**Mr Manthorpe**—The issue of JSCI upgrades is currently one of the priorities that we have asked them to look at, among others.

**Senator WONG**—‘Currently one of the priorities’. I am asking, prior to April 2005, which is nearly two years after this model was introduced, what was the instruction or system that contract managers were asked to put in place in relation to monitoring upgrades?

**Mr Manthorpe**—We have been monitoring it since day one, and that is how we detected the trend.

**Senator WONG**—There was no trend for nearly two years?

**Ms Golightly**—None that was out of the ordinary, no.

**Senator WONG**—Does any of the money that is being repaid relate to upgrades in 2003?

**Ms Caldwell**—No.

**Senator WONG**—2004?

**Ms Caldwell**—Yes.

**Senator WONG**—And 2005?

**Ms Caldwell**—Yes.

**Senator WONG**—I will turn now to payments of money, and I appreciate that you have taken on notice how much. There is an indication that Employment Plus has returned \$9 million to the government. Is it the case that initially that amount was calculated at \$14 million?

**Ms Golightly**—I cannot talk about individual providers.

**Senator WONG**—Why is that?

**Senator Abetz**—We have been through this, Chair.

**CHAIR**—We have been through this.

**Senator WONG**—This is all on the public record.

**CHAIR**—It is unproductive and dangerous, if I can put it that way, to be going into individual details in light of the situation that the department has outlined. I would ask you not to do that.

**Senator WONG**—I am not sure it is unproductive if less money has been paid back than was originally determined. There may be a very good reason for that, but it has been suggested publicly that the amount of money paid back is quite substantially less—around \$5 million less—than was originally determined. That may not be correct, but that is what I am asking about.

**Dr Boxall**—We cannot comment on that. Neither the government nor the minister nor the department has put any of that material on the public record.

**Senator WONG**—How much money is under investigation?

**Dr Boxall**—You mean the less than five providers?

**Senator WONG**—Yes.

**Dr Boxall**—We cannot answer that.

**Senator WONG**—Why can't you answer that?

**Dr Boxall**—Because we do not know.

**Senator Abetz**—Potentially, if it is under investigation, it might go to court proceedings, as previously explained. If there is evidence here that it is \$X and then somebody gets charged with \$X-plus, there might be some very real difficulties with the prosecution. I would have thought that would be obvious.

**Senator WONG**—So you cannot tell us how much taxpayer money might be caught up in this scandal?

**Senator Abetz**—Undoubtedly, they can. First of all, let me repudiate the suggestion of scandal. In relation to the amounts, I daresay they could, but it could prejudice any legal action, and therefore they are not going to. There is a big difference between 'cannot' and 'will not', and they will not because of the reasons already outlined. After these things are resolved, it may well be that at a future estimates all these questions will be allowed because they would no longer be prejudicing any potential legal proceedings.

**Senator WONG**—Is the possibility of further legal proceedings still open in respect of all four providers?

**Dr Boxall**—We cannot answer that either until then.

**Senator WONG**—How can that possibly prejudice any proceedings? If the answer is no, then the issue of whether privilege arises is clearly not as great. If the answer is yes, then the issue of privilege needs to be considered more closely. If the minister has already determined that there will be no criminal proceedings in relation to these providers, then clearly—

**Senator Abetz**—No, let me be very clear on this.

**Senator WONG**—Minister, I have not finished.

**Senator Abetz**—The record needs to be corrected.

**CHAIR**—Minister, could you let Senator Wong finish, then you can speak.

**Senator WONG**—If there has been a decision within government not to take any criminal proceedings or further legal proceedings, then clearly that impacts upon this committee's consideration of the privilege argument that has been raised.

**Senator Abetz**—Can I correct the record—and Senator Wong ought to know this. Thank goodness we live in a genuine democracy where there is the rule of law. No minister or government will determine whether somebody is going to be charged in relation to this. If there are matters that excite the interest of the department, they go through the normal processes and ultimately are referred to an independent statutory individual—namely, the Director of Public Prosecutions—who will make a determination as to whether somebody is to be criminally charged, without fear or favour and without any interference from the minister or the government. That point has to be made very strongly.

**Senator WONG**—Sure. I should be more precise, Minister. I take on board what you have said. Has there been a decision to refer or not to refer this matter for consideration by the relevant prosecutorial authority?

**Dr Boxall**—Earlier on you asked a question about the number of current examinations and we answered that it was less than five. That is the answer. Therefore, if they are current, by definition they have not been finalised. So we are not in a position to answer questions which would be more appropriately asked when the whole process was completed.

**Senator WONG**—So the four have not been finalised?

**Dr Boxall**—Chair, Senator Wong asked earlier about the less than five cases and the current examinations. They are current.

**Senator WONG**—No, they are investigations. They have gone beyond the examination point, haven't they?

**Ms Golightly**—Yes, but there is a difference between investigations and fraud investigations.

**Senator WONG**—Yes, I appreciate that. Just because something has gone to investigation does not mean that there is a criminal element.

**Ms Golightly**—Exactly.

**Senator WONG**—I want to make it very clear that I understand that. I am not asserting otherwise. Did you take on notice—the four currently under investigation, when were they referred to the investigations unit?

**Dr Boxall**—We have not taken that on notice.

**Senator WONG**—Sorry, I will start again. Of the four, are they all currently within the investigations unit?

**Dr Boxall**—Of the less than five, they are currently subject to examination investigation and we cannot say with any more precision what stage those proceedings are up to.

**Senator WONG**—Dr Boxall, I am not asking who they are in this question. I am asking a very reasonable question about what action the department has taken to investigate this matter. As I understood your evidence, there is a process of dialogue, examination through the contract management process and then there is, dare I call it that, a more formal process in which it is investigated. Is that not correct?

**Ms Golightly**—I think this also goes to the point of the clarification I just made. Investigations, being a more detailed examination, can be undertaken by contract management processes. Then there are fraud investigations, which are undertaken by what we call 'the investigations branch'. That branch deals with allegations of fraud or potential fraud. That is another step in the process.

**Senator WONG**—How many have been referred to that branch?

**Dr Boxall**—We cannot answer that question. The process is, as we pointed out earlier, that where there is suspicion of fraud or other allegations of criminal misconduct, it first has to be



evaluated by the investigations branch to see whether there is sufficient material to justify a full investigation by the investigations branch.

**Senator WONG**—Have any been referred?

**Dr Boxall**—We cannot answer questions—

**Senator WONG**—You cannot answer if any have been referred?

**Dr Boxall**—No.

**Senator WONG**—How can that possibly, without identifying them or even identifying the number, prejudice any future legal proceedings?

**Dr Boxall**—Because there is a small number of Job Network providers under discussion, namely, less than five. If we answer questions about one that is doing this and two that are doing that, it will very soon be possible to identify the Job Network member.

**Senator WONG**—I am not asking for a number. I am just asking if any have been referred.

**Senator Abetz**—When you are dealing with such a small number, less than five, and the answer is ‘yes’ or ‘no’, it does not take too much working out, does it?

**Senator WONG**—So you are refusing to answer whether any Job Network member has been referred for investigation to the investigations unit of the department, which may include an investigation of fraud. You are refusing to answer whether or not that investigation is occurring.

**Senator Abetz**—It is not a refusal by way of a wanton refusal. It is because of the advice given to us by Mr O’Sullivan and others that prudence would suggest that we should not be traversing this territory until such time as the matters are completed. Once they are completed, as I have indicated, it may well be appropriate at a future Senate estimates to canvass all this ground. But until such time as these matters are completed it would be, to put it mildly, very imprudent to try to traverse the territory you are.

**CHAIR**—Senator Wong, I think Dr Boxall and the department have given you as much information as they can at the moment. It has been agreed that efforts will be made to provide further information after lunch or when it is available. With due respect, I think we might have reached as far as we can in this particular avenue.

**Senator WONG**—I note your comments, Minister, that it will be appropriate at future estimates. I will look forward to your cooperation when this matter is further investigated.

**Senator Abetz**—As always. That is why you are expecting it.

**Senator WONG**—Leaving aside the investigations unit, Ms Golightly, you talked about a hybrid process of engagement or monitoring and investigation.

**Ms Golightly**—This is on the civil side of contract compliance matters. There are discussions happening all the time, as Dr Boxall mentioned earlier, that may lead to further, more detailed inquiries. We refer to investigations under the contract as the more detailed inquiries.

**Senator WONG**—When were the four current investigations commenced?

**Ms Golightly**—The examination of these providers started in April or May. I could not say which, off the top of my head.

**Senator WONG**—That is all right. When did they move to the investigation stage?

**Ms Caldwell**—In general terms, an inquiry can move to an investigation at any time. One would expect there may have been some which were able to be so identified early in the piece on the basis of early evidence and others that would have been later as additional information came to hand.

**Senator WONG**—Did any move into the investigation stage this year, or was it all prior to this?

**Ms Golightly**—This calendar year?

**Senator WONG**—Yes.

**Ms Golightly**—I think they were all prior to this calendar year.

**Senator WONG**—What about this financial year?

**Ms Golightly**—I think they may have all been in this financial year.

**Senator WONG**—All in this financial year?

**Ms Golightly**—Yes.

**Ms Caldwell**—Given that the inquiry started in April-May, we may need to check. We obviously had some work afoot in the last financial year.

**Senator WONG**—Perhaps I will come back to the guidelines issue after lunch, Ms Golightly. Has the department considered any impact on the star ratings system which might flow from this upgrade issue?

**Ms Golightly**—Yes, Senator—as we would with any contract compliance issue.

**Senator WONG**—Okay, but I am asking about this one. As I understand it, it might be the case—I put it no higher than that—that a Job Network member's performance might have been advantaged by misclassification—by upgrading. It is possible.

**Ms Golightly**—Yes, it is possible for a couple of reasons. The use of the word 'might' is important because we do not know what the investigation will say. Also, there are a number of factors which influence the star ratings, the main one being that people need to get a job. By upgrading or downgrading somebody's JCI, one does not necessarily lead to the other.

**Senator WONG**—No, but it might be lead to higher levels of funding, which might lead to greater levels of service, which might facilitate employment.

**Ms Golightly**—It might. And if we found that it had, we would then adjust the star ratings.

**Senator WONG**—Have you determined a process for considering that?

**Ms Golightly**—We have a normal process. As I said, this might come up in any sort of contract compliance matter. We would normally adjust the ratings up or down if we had evidence to do so.

**Senator WONG**—I understand this is a normal process. But you have acknowledged that you have a situation where some money has been paid back; you have not told me how much.

**Dr Boxall**—That is an issue that the department—

**Senator WONG**—Even your minister has acknowledged that.

**Dr Boxall**—The department has not put that on the public record.

**Senator WONG**—Your minister has acknowledged that the money has been paid back. As a result of that, is there consideration of how you might look to whether there has been any positive or negative impact on a provider's star rating?

**Ms Golightly**—Yes, of course we have considered that.

**Senator WONG**—And what is the outcome of your consideration?

**Ms Golightly**—It is still part of the investigation. We need to finish things before we can give a final decision on it.

**Senator WONG**—Is the investigation considering the impact on the star ratings?

**Ms Golightly**—What is or is not found in any investigation leads to us being able to tell if there has been an impact and, if so, what that impact is.

**Senator WONG**—Will you adjust star ratings in light of the investigation?

**Ms Golightly**—If there is evidence saying that the star ratings need adjustment, yes.

**Senator WONG**—What do you understand the minister to mean when he speaks of sanction? I presume that has a particular meaning under the contract?

**Ms Golightly**—Yes.

**Senator WONG**—Can you tell me what that is?

**Ms Golightly**—While someone is looking that up, I can give the general meaning. Where there are items of noncompliance with the contract, depending on their seriousness, there is a number of actions we can take. They are generally referred to as sanctions. Those sanctions can range from a reduction in the business level for that provider right through to cancellation of the contract with that provider in its entirety.

**Senator WATSON**—So these are sanctions as defined under the contract.

**Ms Golightly**—Yes, the civil sanctions.

**Senator WONG**—Yes, we are in the civil—I am not asking you about that. Going back to the star rating issue, obviously star ratings are a competitive process and have—

**Ms Golightly**—It is a relative measure.

**Senator WONG**—It is a relative measure—that is exactly the point I was trying to make. One provider's star rating obviously has some effect on the competitors in terms of how your system works.

**Ms Golightly**—Yes, in general terms.

**Senator WONG**—If there is information ascertained through the investigation process that leads the department to think it should revise the star rating, how will that be undertaken? Will it be a transparent process?

**Ms Golightly**—I think as you know, we publish the star ratings regularly—

**Senator WONG**—After you determine them.

**Ms Golightly**—Yes, so when we publish the star ratings we would publish their revised star rating.

**Senator WONG**—How can other Job Network members be confident they have not lost out as a result of another provider unreasonably upgrading job seekers?

**Ms Golightly**—Ms Caldwell will correct me if I get this wrong, but when we do the star ratings we would redo the lot, not just the ones for any particular provider that may or may not have been affected by a particular investigation, because they are relative, as we just discussed.

**Senator WONG**—At some point I need to understand more clearly how you come up with the star ratings. Isn't it the case that placing a job seeker that is highly disadvantaged into a job will contribute to a higher star rating for that job seeker?

**Ms Golightly**—There is a higher weighting in the star rating formula attributed to HD clients, as there is, I think, for Indigenous clients and very long-term unemployed clients. There are quite a few that have that higher weighting.

**Senator WONG**—Is a highly disadvantaged job seeker rated about three times more highly than a non-HD job seeker?

**Ms Caldwell**—We use that turn of phrase when talking with Job Network members. Compared to your average job seeker outcome it is between three and four times as high.

**Senator WONG**—So aren't there two conflicts of interest with Job Network members being able to reclassify people? First they get potentially a higher level of funding for a job seeker if they are classified as highly disadvantaged; and, second, they have a far greater—in fact, three times greater—positive impact on their star rating if they place that person. Isn't that a very strong incentive for a Job Network member to reclassify someone as highly disadvantaged?

**Dr Boxall**—No. For example, to take that argument another step you could say there is a very high incentive for people to claim that they have placed people who are highly disadvantaged when they have not placed them. In the event a Job Network member were to do that—and I am not aware that any of them have—not only would they receive a payment that they should not receive but it would also have a positive impact on their star ratings. Under our contract management process, which we have been discussing, when we detect that behaviour not only do we have a repayment of the moneys that were paid, as Ms Golightly outlined, but we also adjust the star ratings.

**Senator WONG**—Are you aware or has it been raised with you an assertion that there are agencies who have already lost business to employment agencies who are allegedly under investigation?

**Ms Golightly**—I am not aware of that.

**Senator WONG**—That has never been raised with you?

**Dr Boxall**—That is Ms Golightly's testimony. She is not aware of it.

**Senator WONG**—Is Ms Caldwell aware of it?

**Dr Boxall**—No, the department is not aware of it.

**Senator WONG**—Dr Boxall, you may not be aware of it. If Ms Caldwell does not want to answer she has options there, but you can hardly answer what she is and is not aware of.

**Ms Caldwell**—I am just checking.

**Dr Boxall**—We are aware of it. We have received a letter from one provider.

**Senator WONG**—When was that received?

**Ms Golightly**—From what I have just been told, it was last week.

**Ms Caldwell**—I think it was actually in the course of this week.

**Ms Golightly**—This week, sorry.

**Senator WONG**—So there is one provider who is making an assertion to that effect.

**Ms Caldwell**—We would need to check the terms of the letter but I believe that the provider's correspondence goes to that issue, yes.

**ACTING CHAIR (Senator Marshall)**—We will suspend the hearing for lunch and reconvene at 1.30.

**Dr Boxall**—Senator Marshall, on the schedule it says that at 1.30 when we return from lunch the committee will be reviewing the agencies.

**Senator WONG**—No. Obviously this is indicative. We would anticipate that being pushed back, hopefully not as much as the Financial Reporting Council was for me yesterday, which went from 3.30 to 9.45. I was being light-hearted! If you are asking how long before we need the agencies, I would not envisage before three, probably.

**Dr Boxall**—I think I am asking more particularly: do you need the department to return at 1.30 or the agencies?

**Senator WONG**—The department.

**Dr Boxall**—Thank you.

#### **Proceedings suspended from 12.31 pm to 1.30 pm**

**ACTING CHAIR (Senator Marshall)**—The sitting of this estimates committee will now resume. Dr Boxall, given that the schedule does indicate we are up to Indigenous Business Australia and Senator Johnston is here to ask some questions there, if it is convenient for you we may proceed to that and come back to the unfinished matters with Senator Wong that we had not resolved prior to lunch.

**Senator Abetz**—Yes, flexibility is the word.

**ACTING CHAIR**—Thank you, Minister.

**Dr Boxall**—Certainly, Senator Marshall.

**Senator WONG**—Dr Boxall, I am sorry; I was not aware when we made the arrangements before lunch that this is the only time Senator Johnston is free. I apologise for any inconvenience.

**Dr Boxall**—That is fine, Senator Wong.

[1.32 pm]

### **Indigenous Business Australia**

**Senator JOHNSTON**—Thank you, Chair. Mr Moroney, can I ask you for a brief update on the Presspower insolvency, the issue that has been vexing me for a long time now?

**Mr Moroney**—Yes. We have given evidence to the Senate before about the background to Presspower. On 9 August, I terminated the appointment of the receiver manager and so, from an IBA perspective, we have written off the remaining debts. The matter is now, as someone suggested to me in the office the other day, ‘done and dusted’ in terms of the IBA. We have gone through all the normal processes and, given the ongoing costs with that matter in terms of the receivership, we have terminated that arrangement.

**Senator JOHNSTON**—Good. Can you tell me—and I am happy for you to take these on notice—the total amount of the debt written off?

**Mr Moroney**—The amount written off was \$3,093,128.94.

**Senator JOHNSTON**—Can you tell me how much you paid in fees to the receiver manager?

**Mr Moroney**—I would have to take that on notice.

**Senator JOHNSTON**—From the beginning of the insolvency right through to the date of termination and any subsequent renderings after that, I would like to know the full amount that it has cost the Commonwealth. I would like to know whether you have undertaken any review about taking action against the liquidator, the administrator, the person who was running the insolvency, because it went on for such a long time and with absolutely no benefit to the Commonwealth, and we continued to pay fees, as I understand it.

**Mr Moroney**—We have undertaken some analysis and we have indicated that we would be prepared to provide to the Western Australian public prosecutions office any information that might lead to a conviction, or any suggestions of fraud.

**Senator JOHNSTON**—That is with respect to the borrower, I think, isn't it?

**Mr Moroney**—Yes.

**Senator JOHNSTON**—I am interested that you also focus on this insolvency which, as I say, went on for seven, eight or nine years.

**Mr Moroney**—It was a number of years. As you are aware, we inherited the program from ATSIC. We have had an involvement with it for just under a year. In that time we went through and did a full assessment of the likelihood of recovering assets; we looked at the overall costs and decided that the matter was best terminated and that we write off the debt because there was no prospect of recovery.

**Senator JOHNSTON**—All I want to say is that that is a significant write-off. It is a significant period of time that the insolvency was continued for and for which we—that is, the Commonwealth—paid fees. I would have thought that you would be having a look at whether there was any value in the encouragement the receiver gave you to hang in when, at the end of the day, nothing has been yielded. I am interested to know how much we have spent in fees. I

think that is the most important thing. If you could come back to me on notice, I would appreciate it.

**Mr Moroney**—I would like to make a point. In the short time we were involved in it, I believe we followed due process. I think the 10 months it took us to reach a decision involved some thorough assessment. We looked at the issues of fraud. We also looked at the ways in which we may be able to pursue some of the borrowers or trails that were there. In the end, based on good advice from lawyers, we made that decision.

**Senator JOHNSTON**—I think you are right. I think that, when you took over, things began to happen. But I have to say that what happened before that is the time that worries me. I think someone should be brought to account for it. If I could have those answers in due course, I would be very much obliged.

**ACTING CHAIR**—Mr Moroney, you say that, as far as your department is concerned, the matter is done and dusted. Following on from what Senator Johnston was asking, is there any view at all expressed by your department or do you have a view that the administrator-receiver acted properly at all times?

**Mr Moroney**—We are not suggesting that the administrator acted improperly at all. The administrator was indicating to us that there may be some other avenues to pursue. In the end, we had to weigh up whether the cost of continuing those investigations was in the best interest of us and the public. I made a decision that the cost of pursuing those additional investigations did not justify the likelihood of any recovery.

**ACTING CHAIR**—So ‘done and dusted’ means that that is the end of the matter and you are not considering pursuing any other avenues.

**Mr Moroney**—That is correct, absolutely. We do not believe there will be any recovery and therefore further investigations would only incur additional costs. The only caveat I would add to that is that we have indicated to WA Public Prosecutions we would be prepared to provide any information that they might seek in relation to some of the borrowers and some of the action they took during the course of that venture.

**ACTING CHAIR**—And if they indicated that they may be seeking that assistance from you?

**Mr Moroney**—To my knowledge, we have not had an approach on the matter but we have indicated that we are prepared to.

**Senator CHRIS EVANS**—I want to ask some questions about the grants from both the microcredit and enterprise hubs. My understanding from questions on notice provided through Senator Abetz is that the original decisions were made when DEWR had responsibility for the program.

**Mr Moroney**—Mr Myers will answer as many questions as he can in relation to that matter. If need be, we will call Mr Parrett forward to deal with any details.

**Senator CHRIS EVANS**—Mr Myers, I just walked in. Are you with IBA?

**Mr Myers**—Certainly. But, with the transmission of programs across, we now have full responsibility for the—

**Senator CHRIS EVANS**—I want to ask some questions about the treatment of the grants.

**Senator Abetz**—Hopefully people at the back of the room have heard your request and, if further assistance is needed at the table, I am sure they will be coming forward.

**Senator CHRIS EVANS**—I am sure they are not surprised I am raising the matter. I am sure they will be well prepared. I want to start with the Business Development Program. Firstly, I want to ask some questions about the enterprise hubs project conducted by Hillsong Emerge in Redfern and Mount Druitt. I have some answers to questions on notice kindly provided by the Minister for Employment and Workplace Relations, but I just want to follow them up. The questions on notice indicate that there was only one application for this funding, and that was from Hillsong. I want to understand whether it was advertised, whether tender was sought or how it was that only one application was received and how that was treated.

**Mr Myers**—Certainly. We do not advertise the Business Development Program as such. Groups can apply to the program with ideas, concepts or business loans depending on which element of the program. So it is not the type of program which is advertised with certain cut-off dates which is how some agencies administer programs. Ours is open all year round.

**Senator CHRIS EVANS**—You do not have a sort of normal process where you encourage people to apply by a certain date?

**Mr Myers**—No, we do not have a time line on it. The program rolls right through the year.

**Senator CHRIS EVANS**—Do you mainly fund Indigenous organisations or other organisations?

**Mr Myers**—The program comprises two elements. One element is for the provision of capital loans to Indigenous business people. They can be to start new businesses or expand existing businesses. The other part of the program provides a range of services. These can be anything from providing business planning advice, after-care, mentoring of existing borrowers and so on. Yet the money is also used to provide a network of support services for Indigenous people. The hub activity was funded out of that part of the program to provide encouragement for people to look at getting into business and to increase their capacity to get into business.

**Senator CHRIS EVANS**—When was the decision taken to award the program to Hillsong Emerge?

**Mr Myers**—The hub program itself was approved in September 2004.

**Senator CHRIS EVANS**—And who made that decision?

**Mr Myers**—The decision was made within the Department of Employment and Workplace Relations. The program had just transferred across from ATSSIS which was administering it on behalf of ATSSIC.

**Senator CHRIS EVANS**—Yes, I have been trying to follow that. This program has been on the move for a while.

**Mr Myers**—It has indeed.

**Senator CHRIS EVANS**—The total amount of funding under this grant was \$610,968?



**Mr Myers**—The figure I have here is \$672,065. That was for the period of 1 October 2004 to 31 October 2005. So the figure you have there may be the 30 June figure.

**Senator CHRIS EVANS**—So the answer you have provided to me, of \$610,968, you think was an end of June 2005 figure?

**Mr Myers**—I think it may have been.

**Senator CHRIS EVANS**—So what was the total again?

**Mr Myers**—The total was \$672,065.

**Senator CHRIS EVANS**—Can you explain to me why the figure changed?

**Mr Myers**—As I said, the program was funded for a period of 12 months which ran over financial years.

**Senator CHRIS EVANS**—But what was the original grant worth?

**Mr Myers**—The original grant approval was \$672,065.

**Senator CHRIS EVANS**—I see. The original grant was \$672,065. I gather there was a late start-up and it extended into the next financial year. Is that how it worked?

**Mr Myers**—The original approval was from 1 October 2004 to 31 October 2005, so the original approval crossed a financial year.

**Senator CHRIS EVANS**—So there was no delay in start-up then?

**Mr Myers**—The approval was in September and the start-up was October. There were some slight delays in the start-up which is why we agreed to allow the hubs to run through to December at no additional cost.

**Senator CHRIS EVANS**—So do you know when the hubs actually started?

**Mr Myers**—The hubs started on 1 October 2004.

**Senator CHRIS EVANS**—I thought you just said that they did not start then, though.

**Mr Myers**—I think there were some delays in recruitment coming to full speed. In other words, they opened the doors but they would not have hit full speed and recruited all their people by that time.

**Senator CHRIS EVANS**—So you extended the time but on the basis that they were using the money you had allocated to them anyway.

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—You are obviously much more efficient than other departments, Mr Myers. For an application received on 27 August there was approval on 17 September. That is a record time for the Commonwealth bureaucracy, with all due respect to the other departments.

**Mr Myers**—I believe there had been a lot of discussion leading up to the application. The arrangements had been the subject of discussion as to how they might operate. I think there was a lot of knowledge within the department at the time about what was intended. It was not like it was a cold application where people had to go from scratch. That is my understanding.

**Senator CHRIS EVANS**—Who was the discussion between?

**Mr Myers**—It would have been between officers who were at the time employees of DEWR. Prior to that it would have been ATSSIS officers and now it would be IBA officers.

**Senator CHRIS EVANS**—Do you know that for sure? I think you said, ‘It would have been’. I am always very careful with witnesses so that they do not have to come back or write me a letter the next day saying, ‘That was not quite right.’ It is as much for your protection as mine.

**Mr Myers**—I am sure that is correct.

**Senator CHRIS EVANS**—So there were discussions; who was representing Hillsong Emerge in this?

**Mr Myers**—Leigh Coleman.

**Senator CHRIS EVANS**—Is Hillsong Emerge a company or incorporated body?

**Mr Myers**—A limited body.

**Senator CHRIS EVANS**—It is a limited company?

**Mr Myers**—Yes. It is the benevolent arm of the church.

**Senator CHRIS EVANS**—And it is a limited company? Are we all happy that it is a limited company?

**Mr Parrett**—Yes. It is referred to as Hillsong Emerge Ltd.

**Senator CHRIS EVANS**—How was the money paid? Was it all up-front or were there a series of payments? Were they performance linked?

**Mr Myers**—There was a series of payments; so it was time linked. They were funded for particular activities and there would have been progressive payments.

**Senator CHRIS EVANS**—It was time linked rather than performance linked?

**Mr Myers**—The nature of the activity was to generate interest in economic development. The purpose of the hubs was not to get people into business; it was to encourage people to start to think about getting into business and about opportunities that were available to them.

**Senator CHRIS EVANS**—The performance indicators mentioned in the answer I got to the question on notice were things such as the number of connections with individuals, the number of connections with groups and the number of individuals that acquired assistance with marketing and the targets. None of it actually goes to outcomes, other than contacts with people to help them think about it?

**Mr Myers**—That is correct. The hubs would not have gone to the point of putting people into business. If people were business ready then they would have been referred, for example, across to IBA’s lending program et cetera. The hubs were, I suppose, to generate that interest. They were not tasked with the job of getting people into business.

**Senator CHRIS EVANS**—So there was \$670,000 to help people explore whether they might be interested in getting into business?

**Mr Myers**—Given the economic depression in the Mount Druitt and Redfern areas, it was really about trying to encourage the next generation.

**Senator CHRIS EVANS**—Do you have the details of the progress payments?

**Mr Myers**—I would have to take that on notice.

**Senator CHRIS EVANS**—I saw Mr Paterson with pretty big files there; I thought he might have had it handy. If you would not mind taking that on notice, that would be good. You gave me the targets for the performance indicators; can you tell me how you have gone in terms of evaluating the project?

**Mr Myers**—There are two things: first of all, we evaluate the project at the end of the cycle; the second thing is the financial appraisal. Each of these, or any program that we fund of this nature, requires a proper audit at the end of it. So there will be an audit process as well as a physical assessment process. In fact, we are planning a meeting with Hillsong Emerge within the next two weeks to go through outcomes and to look at what we might do in the future. From an IBA viewpoint, some of the activity, while important, probably does not necessarily fit IBA's charter, which is quite narrow, so we would want to sit down with Hillsong and refine what is being done and what might happen in the future.

**Senator CHRIS EVANS**—Just so I am clear: you stopped funding them, I gather, at the end of 2005?

**Mr Myers**—We gave them an additional payment for two months only, as a holding arrangement, to allow us to come to a view about the long-term funding. That arrangement runs till 28 February. By then we will have come to a view about what we think about the hubs and how and whether we will continue to work with them and what form that might take.

**Senator CHRIS EVANS**—So how much did you give them as interim funding for January and February?

**Mr Myers**—I suspect it is in the area of \$40,000, but I will need to check that for you.

**Senator CHRIS EVANS**—Does anyone know?

**Mr Parrett**—Sorry, I have not brought that information with me.

**Mr Myers**—No, sorry, we do not have a split. I will have to take that on notice.

**Senator CHRIS EVANS**—Anyway, you think it is in the order of a further \$40,000?

**Mr Myers**—Yes, that is my recollection.

**Senator CHRIS EVANS**—I will not hold you to the exact figure. Now, you said you are not sure whether it fits the IBA's charter. Given that the whole thing was set up in response to discussions with you et cetera, what do you mean by that?

**Mr Myers**—The program was originally designed and funded within the environment of first ATSI and then DEWR, who have much broader charters than IBA does. IBA has a specific piece of legislation it needs to work under, and a lot of the activities the hubs do—which are worthwhile activities such as trying to improve financial literacy skills et cetera—do not necessarily fit IBA's business charter. These are the sorts of things we need to sit down

with and work out whether they are appropriate things for IBA to fund or whether there are more appropriate funding sources for that type of activity.

**Senator CHRIS EVANS**—I understand the differences between the functions of the departments and those of the IBA, but are you telling me the Indigenous Business Development Program has changed, in the sense of its charter? As I understand it, you picked up the program; now you are saying you are not sure that it quite fits within IBA.

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—But have the criteria for the actual program changed since it came to you?

**Mr Myers**—There has been some revision of the program but, more importantly, the program still needs to fit within our broader legislation, which requires that we act in a commercial manner, and there are a whole range of things that would need to fit within that. We are not at this stage convinced that the funding of education type programs is necessarily something that IBA would want to be doing in the longer term and we believe there are probably more appropriate agencies for supporting that type of work.

**Senator CHRIS EVANS**—So you think this particular program fits more into an educational framework?

**Mr Myers**—Elements of it certainly do.

**Senator CHRIS EVANS**—Certainly, from what you have been saying to me, it seems to be more of that nature. When you say there are commercial requirements of you under your act, what do you mean?

**Mr Myers**—The act requires that IBA act in a businesslike manner. Without boring the committee, IBA has a fairly complex funding arrangement where it has three programs—

**Senator CHRIS EVANS**—Business is pretty good; I am going to come to your cash reserves in a minute! Commercially you are going pretty well from what I have seen. Have you got the bank?

**Mr Myers**—We try. For example, the investment program is not budget funded for either administrative costs or program costs. We have to run that totally from profits. In the home ownership program, the actual housing fund itself is not budget funded; it has to grow from the performance of the home loans and the repayment of interest back into the fund, but we are budget funded for the staff costs. The Business Development Program is budget funded for both, but part of the program is a capital program because it is a lending program.

**Senator CHRIS EVANS**—The Business Development Program is budget funded, though, each year?

**Mr Myers**—It is.

**Senator CHRIS EVANS**—So you are now in negotiations with Hillsong Emerge, with Mr Coleman.

**Mr Myers**—We plan to meet with them within the next two weeks, sit down with them and resolve what IBA's relationship will be with them in respect of the hubs.

**Senator CHRIS EVANS**—Why in the next two weeks? You have funded them until the end of February at the end of the program, in December, as a holding thing. Could you have gone in there in January and sorted it out?

**Mr Myers**—Our board wanted to consider the funding of these types of programs, the Hillsong Emerge funding arrangements and microfinance. Our board considered those matters yesterday. Until our board had had the opportunity to look at what its position was, we were in no position to sit down with that organisation.

**Senator CHRIS EVANS**—I will come to the board meeting. I saw the press release that the board put out yesterday. It considered both this program and the microcredit program?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Did the press release cover this program as well?

**Mr Myers**—No, because we are still to work out our final relationship with this program. Our board's position is that they would be prepared to support this program in some scope that is more appropriate for IBA for a further period, but only for a fixed period.

**Senator CHRIS EVANS**—When you say 'support this program', do you mean the Hillsong Emerge proposal or the broader program?

**Mr Myers**—No, the hubs themselves. These two hubs.

**Senator CHRIS EVANS**—These two particular hubs?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Therefore, I assume that assumes that the services would still be provided by Hillsong Emerge?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—So when you say 'support the hubs', you mean support their ongoing activity, not separate the hubs and then decide who is going to get the contract?

**Mr Myers**—That is correct.

**Senator CHRIS EVANS**—So they have said they are prepared to do that, provided they are convinced that it fits within the charter.

**Mr Myers**—Within the IBA framework of what we see as our priorities.

**Mr Moroney**—I might add that it is for a fixed time. What that period of time might be does not matter because we did not feel the need to just switch them off instantly. There is some positive work that has been achieved. We want to provide important links to the CDEP scheme and those people who are on Centrelink benefits. We did not necessarily want to just close those up automatically. They are the elements that we are interested in.

**Senator CHRIS EVANS**—So the board says that there are elements of the program that you are keen on or interested in continuing and there are elements that you basically do not think is your business. Is that a fair summation?

**Mr Moroney**—It is a fair summation.

**Mr Myers**—That is right.

**Senator CHRIS EVANS**—And you are saying that the elements the board decided they were interested in were CDEP—

**Mr Moroney**—Mr Myers might clarify that point.

**Mr Myers**—There are two elements. There is the microfinancing or microenterprise development, which is one activity, and there are the hubs.

**Senator CHRIS EVANS**—We are on the hubs at the moment. I will come to the other.

**Mr Myers**—The comments in respect of CDEP et cetera were in respect of the microenterprise development, not the hubs.

**Senator CHRIS EVANS**—I see. What was the board decision in relation to the hubs? Was it that there were certain aspects of the program that it wanted to continue with?

**Mr Myers**—It was what it was prepared to consider supporting and that we are to have the dialogue with Hillsong Emerge. The sorts of activities that we would support are the activities which would lead to people presenting to get into small business. There have been a number of referrals from the hubs to our Business Development Program. They are the sorts of elements that we would be keen to support. The sorts of activities that they are doing in terms of literacy training and financial training which do not result in people looking to engage in small business are not activities we would be particularly interested in. If they are assisting groups to, say, develop a business plan or a business concept and to give them some preliminary training in understanding financial statements which then results in those people entering into business—for example, through our Business Development Program—then they are the elements we would like to support—in other words, if they feed our other activities.

**Senator CHRIS EVANS**—So it is fair to say that if the project is to be ongoing, it will be in a quite dramatically smaller form?

**Mr Myers**—It will be targeted and we would expect our financial commitment to be much smaller.

**Senator CHRIS EVANS**—Have you got any targets for that or is that subject to the negotiations?

**Mr Myers**—It is subject to discussions.

**Senator CHRIS EVANS**—The board did not give you parameters for that?

**Mr Myers**—No.

**Senator CHRIS EVANS**—So that is going to happen before the end of February, because obviously they close their doors at the end of February if you do not fork up some more money. Is that a fair statement? Are you the sole funds provider for this?

**Mr Myers**—I do not think we are the sole funds provider; they do have other avenues of funding.

**Senator CHRIS EVANS**—Do you know who they are?

**Mr Parrett**—The hubs receive funding from the state's Treasury and they also receive private funding from entities such as Ford Australia and BHP.

**Senator CHRIS EVANS**—So that is the New South Wales Treasury?

**Mr Parrett**—Sorry, it is the New South Wales Premier's Department.

**Senator CHRIS EVANS**—And do you know what they fund them for?

**Mr Parrett**—I do not have the details of the purposes of their funding.

**Senator CHRIS EVANS**—Okay. Can we go back to what evaluation has been done on the program.

**Mr Myers**—In terms of ongoing evaluation, there is requirement for Hillsong to produce monthly performance reports of what their actual activities are, and also there is the audit at the end of the period. The performance reports address the various elements of their programs and also the number of clients they are dealing with. From those we will make our judgments as to what we think are relevant elements for IBA in a go forward sense.

**Senator CHRIS EVANS**—Fine, but have you done the end of contract evaluation?

**Mr Myers**—No, that is the process we will now be going through with Hillsong in the next two weeks. Are you talking about an evaluation of the outcomes of the hubs themselves?

**Senator CHRIS EVANS**—Yes. You gave them \$670,000. I expect you would do some evaluation to say, apart from your ongoing discussions about your funding, you would do some formal evaluation as to whether you got value for money, and so you have an end of cycle evaluation and you have an audit. I am trying to work out whether they happened and what the conclusions from them were.

**Mr Parrett**—The original funding was for a 12-month period. However, the application was for a two-year period, so we have undertaken monthly evaluations of their progress and we have undertaken a full review of their final report which has helped us form a view on the sorts of activities that we would look to support in the future as far as Hillsong's hub activities are concerned.

**Senator CHRIS EVANS**—So they gave you a final report?

**Mr Parrett**—Correct.

**Senator CHRIS EVANS**—When did they provide that to you?

**Mr Parrett**—In December.

**Senator CHRIS EVANS**—And what form did that take?

**Mr Parrett**—That is a written report with details of each individual client that has been assisted, the types of activities that client has received and the progress as far as developing their business concept or their understanding of business. It is a detailed report.

**Senator CHRIS EVANS**—What evaluation have you done on that?

**Mr Parrett**—Generally with the Business Development Program the relationship we have with business hubs—and we have a number of relationships like this across Australia—is based on a fee for service. This one was slightly different, so what we are trying to do is to establish whether the types of activities, as Mr Myers has said, are at the later end where people are looking to get into business. In the instance of these clients, we have just recently had 25 clients referred to the Business Development Program in the Sydney region to assess whether there are further activities that the program can do to assist their business proposals.

**Senator CHRIS EVANS**—You have picked these out of the people who were clients of the other program?

**Mr Parrett**—It was Hillsong Emerge.

**Senator CHRIS EVANS**—In doing your evaluation you decided to refer these people on?

**Mr Parrett**—It was a joint discussion between Hillsong and ourselves. It is now a case of seeing how the 25 people fit into the BDP, and what we need to do to progress their business proposals.

**Senator CHRIS EVANS**—I am not clear, though. You got the final report from Hillsong Emerge. What did you do to evaluate that? I know you were having discussions about what is ongoing, but you gave me in the answers a list of performance indicators but, to be frank, they do not go to outcomes; they go to contacts alone, it seems. Is that a complete list of the bases of performance indication?

**Mr Parrett**—They were the agreed performance indicators at the time of funding.

**Mr Myers**—Our evaluation process now is to work out, within an IBA context, which of those is relevant for IBA and what we might do in the future. In other words, Hillsong's report addresses the contractual obligations they entered into, which were fine at the time, and they have fulfilled those contractual obligations. But, from our viewpoint, if we are to have a further funding relationship, we would want our expenditure to be more clearly focused on outcomes from an IBA viewpoint.

**Senator CHRIS EVANS**—The performance indicators I have—and I want to be clear that that is the end of them—only relate to the number of individuals who have been contacted, the number of individuals who have acquired assistance with marketing and the number of entrepreneurs who have maintained regular contact per quarter. There are six of them, but none of them seems to go to outcomes—none at all. Is there no outcome evaluation of this particular program?

**Mr Myers**—If we are to have an ongoing funding relationship, the indicators will look somewhat different.

**Senator CHRIS EVANS**—Can you explain to me why there were no outcome indicators in the original contract?

**Mr Myers**—These were brand new hubs in an area where people were not sure what the take-up rate would be. As I mentioned earlier, the Mount Druitt and Redfern areas of Sydney have some fairly difficult socioeconomic situations. I think there may have been a danger in trying to set what perhaps would have turned out to be artificial requirements or expectations on Hillsong as to what they may have been able to achieve. Bear in mind that they originally applied for a two-year program and the decision was made to commit to only one year, which gives everybody a good opportunity to have a look at what is being achieved at the end of the first year and then consider that if there is a go-forward.

**Senator CHRIS EVANS**—I accept that. Obviously, in new programs, outcomes are not necessarily as strong as you would want, and you learn the lessons, but what strikes me from this most clearly is that there are no outcome performance indicators whatsoever.



**Mr Myers**—The way IBA would measure it currently is by the referrals from the hubs to our other programs, and we can measure that internally, because we see where the people are coming from. We know what skills they now have and who gave them those skills, so we can measure it from an internal viewpoint. As Mr Parrett said earlier, we have recently had 25 referrals. If that were to end up in 25 Indigenous people going into business, we can measure those outcomes fairly quickly.

**Senator CHRIS EVANS**—That is right, but we are three steps back from that, aren't we, in the sense that people who may have had contact with them have now been referred on to your main stream, and after you work with them they may go into a business.

**Mr Myers**—And to a bank, yes.

**Senator CHRIS EVANS**—So there are no outcome criteria, but you are keen, if you do anything else with this project, to focus more on outcomes. Is that fair?

**Mr Myers**—The normal funding relationship we have with hubs around Australia, as was said earlier, is a contractual relationship where they are paid for specific activities, rather than on an annual basis. They are the sorts of models we would want to sit down and discuss.

**Senator CHRIS EVANS**—What about the audit? When is that to occur? Has it occurred?

**Mr Parrett**—The auditors have commenced, and we expect to have the final audit report in the next couple of weeks.

**Senator CHRIS EVANS**—Are they your auditors or are they contracted?

**Mr Parrett**—They are contracted auditors. In this instance, it is Ernst and Young.

**Senator CHRIS EVANS**—And has that been straightforward, that the funds have been spent in accordance with the contract?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—In terms of the contract, did you have an agreement as to how the \$670,000 would be spent? Did you have a breakdown of allocation of what it was to be allowed to be spent on?

**Mr Parrett**—In the application a budget was provided, and that was the basis for the decision for funding.

**Senator CHRIS EVANS**—Is it a requirement of the funding that they spend it in accordance with that budget?

**Mr Parrett**—Yes. There have been some variations throughout the process, and they have been negotiated and agreed to.

**Senator CHRIS EVANS**—Sure. So there is some flexibility, but that has to be negotiated with you, effectively?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—Were those adjustments major or at the edges?

**Mr Parrett**—The adjustments were not financial; they were more time-wise. The original funding was to expire in October. They had not quite spent their money due to, as Mr Myers

indicated, recruiting and ramping up activity. We extended the period, with no additional expense to the government, to the end of December.

**Senator CHRIS EVANS**—There were no other major changes to the budget arrangements?

**Mr Parrett**—No.

**Senator CHRIS EVANS**—I understand that 13 people were employed under this project—is that right?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Thirteen Hillsong Emerge staff worked on these activities and were remunerated from the grant?

**Mr Myers**—Correct.

**Senator CHRIS EVANS**—Was that provided for in the budget or was it a gross figure which they worked out how to spend?

**Mr Parrett**—I would have to go back and check. My understanding is that it was a gross figure.

**Senator CHRIS EVANS**—But you since know, from their reports, that 13 staff have been employed?

**Mr Parrett**—Exactly.

**Senator CHRIS EVANS**—Was there a part of the contract allowing for rent of premises et cetera?

**Mr Parrett**—Certainly, all administration costs were factored into the grant. This grant was for the establishment of the hubs as opposed to contracted services. It was always anticipated that the hub would be self-funding within the first two years. It was anticipated that by year 2 they would be attracting private sector funds to help with the funding of the hub itself.

**Senator CHRIS EVANS**—Did you pay rent in the first year, though?

**Mr Parrett**—I would have to take that on notice and go back and check.

**Mr Myers**—If you are going to ask specific questions relating to the budget we will have to take them on notice. We do not have the budget details in front of us; we would need to look at that and see what was in the application.

**Senator CHRIS EVANS**—Were the hubs in existing Hillsong premises where they had other activities going on?

**Mr Parrett**—Both hubs were newly established premises. Part of the buildings were, I understand, gifted to them by other entities or organisations. I am not certain, but I can establish that for you.

**Senator CHRIS EVANS**—So, as part of establishing this project, Hillsong got access to new—not brand new but new to Hillsong—premises to operate out of?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—In one of your answers I think you said that you had \$200,000 allocated for administration and \$410,000 for salaries during the year. I note that the hubs were funded for only \$470,000 but that a program called Shine was funded for \$140,808. Why did the IBA fund the Shine program?

**Mr Parrett**—The business development program at that time had a broader charter to try to encourage people to get an understanding about business and an interest in moving towards business. The program at the time felt that, by targeting young Indigenous people, we had more opportunity to bring them into a business environment and to business knowledge than by trying to capture them once they had left the school environment. Therefore we supported the Shine program initially on the basis that it had been working with young Indigenous students to help them develop not just an awareness of business but also the self-confidence to undertake business activities. We felt that it did fit within the broad guidelines of the BDP's economic development initiatives.

**Senator CHRIS EVANS**—I have looked at the Shine material, and I do not find any mention of business. I see from the material that this is largely directed at year 7 or 8 girls—which is a long way from business age. I do not want to say that development of life skills is not important; it is, but the link with the business development seems pretty tenuous.

**Mr Parrett**—The Shine program also assists them to develop an understanding of marketing. They develop products and concepts—they may not be business but hobbies. However, it is aimed at trying to give a better understanding of what being in business might be about.

**Mr Myers**—Just on the point about the age, the experience in Canada and other places is that you need to target people at that age to really get them thinking about small business.

**Senator CHRIS EVANS**—I just cannot find any reference in any of the material to small business. It is just not there.

**Mr Myers**—I am not sure what you are referring to, so I cannot comment.

**Senator CHRIS EVANS**—It is just the Hillsong Shine publicity material. I am not saying it is all of it. It says:

Each program presents Christian principles and creates an environment where girls form values, which will become the foundation for them making great decisions and directly impact their future. Graduates are also presented with a comprehensive handbook, and a certificate upon completion.

I have no problem with programs aimed at encouraging and helping Indigenous young women to develop confidence. I am just trying to understand how that fits with the hubs. The application for the Shine program was part of the original grant, was it?

**Mr Myers**—Yes.

**Mr Parrett**—We run a series of other activities, and the view was to try to pick some of the children out of school and move them through to the other activities and then develop business concepts as well. We run a series of workshops to encourage business, and we run a series of mentors and monitors to help people.

**Senator CHRIS EVANS**—You said 'we'—

**Mr Parrett**—The Business Development Program.

**Senator CHRIS EVANS**—But not out of the Shine program

**Mr Parrett**—No, not out of the Shine program.

**Senator CHRIS EVANS**—This is separate activities that you fund. Are you doing an analysis of the Shine program as well?

**Mr Parrett**—Yes, we are.

**Senator CHRIS EVANS**—Is that separate from the hub program?

**Mr Parrett**—No, it is incorporated in the assessment of the hubs.

**Senator CHRIS EVANS**—But it is fair to say these are two quite different activities, aren't they?

**Mr Myers**—It is a service they deliver out of the hubs, which is why the funding is tied together.

**Senator CHRIS EVANS**—I see. So the service is delivered out of the hubs. I see that they provide training courses in schools, information nights, et cetera, but that activity is not related to the hubs; that is related to the objectives of the Shine program. Were the objectives of the Shine program presented to you as part of the funding application?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—Can you provide me with a copy of that, please?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—What is your method of evaluating the Shine program?

**Mr Myers**—We will be looking at the actual outcomes. In other words, we will be looking at what movement there has been from that program to perhaps people becoming more serious about business. As I mentioned earlier, while that is one of the areas within an IBA environment that is a worthwhile activity, I am not sure at this stage if it is an activity which should in the future be funded by IBA. We would be looking for that type of activity to be supported by other agencies at either the federal or state level. I am not criticising the activity; it is just that it is an activity that perhaps, within an IBA context, we would not be looking to support going forward.

**Senator CHRIS EVANS**—It seems to me, on the face of it, moving from year 7 and 8 girls into business activity after a year of this program, you are not going to be able to find anyone who is connected, unless they left school in year 9, are you?

**Mr Myers**—It is very early. You are correct in terms of the lead, but it might show up in terms of what subjects they choose to take on in later years. So there may be some evidence which will give us some comfort; but, as I said before, we see that as an important activity, but it is an education activity.

**Senator CHRIS EVANS**—Have you been getting monthly reports on the Shine activity as well?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—What are the performance indicators for that?

**Mr Myers**—They are linked together with existing indicators.

**Senator CHRIS EVANS**—I see they have been going into schools, juvenile justice centres et cetera with the program. I have a list of where they have been, as it were.

**Mr Myers**—The indicators cover both the in-house hub activity and the outreach activity, such as Shine. It is the one set of indicators for both.

**Senator CHRIS EVANS**—Again, it is down to a question of number of contacts, is it? So when you gave me the answers about the enterprise hubs—

**Mr Myers**—It extends to Shine as well.

**Senator CHRIS EVANS**—So they have only had contact with 250 people all up for both programs?

**Mr Myers**—For the hubs.

**Senator CHRIS EVANS**—That is what I am asking you—what are the performance indicators for the Shine program? Clearly they are two quite different programs.

**Mr Myers**—I will take that on notice just so I do not confuse myself and you.

**Senator CHRIS EVANS**—You have given we answers on notice for what I thought were purely answers relating to the hubs but, just by the list of schools they have gone to, you would have to reckon they got over 250 contacts, unless that is included in the group contacts. Could you break down for me which of the criteria that apply to either part of the program and what the results of your performance indicator measuring was? Basically you are telling me you are unlikely to fund the Shine aspect of the program again.

**Mr Myers**—That is certainly our view at the moment. We are yet to sit down with Hillsong Emerge but our thinking is that that is not what I would deem core activity for IBA.

**Senator CHRIS EVANS**—Were all the 13 staff they employ located at the two hubs?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Do you know what the skills were of the people they employ or is that purely a matter for Hillsong Emerge?

**Mr Parrett**—As part of the terms and conditions of the grant, we encourage Hillsong to undertake proper practices in recruiting, but the actual recruiting was left to Hillsong Emerge.

**Senator CHRIS EVANS**—How do you monitor whether they used appropriate practices for recruitment?

**Mr Parrett**—We ask that they have proper duty statements developed, and our field staff work with Hillsong to ensure that that occurs.

**Senator CHRIS EVANS**—So they provide the duty statements to you?

**Mr Parrett**—I am not sure I have a copy of the duty statements but I can obtain a copy.

**Senator CHRIS EVANS**—Thanks for that. Do your field staff work for them and monitor how they are going? That is IBA?

**Mr Myers**—IBA.

**Senator CHRIS EVANS**—I have had a bad week with acronyms with AWAs and ABW and—

**Senator Abetz**—ALP.

**Senator CHRIS EVANS**—Their actual IBA staff out in the field—

**Mr Myers**—We have an office in Sydney so staff from there will visit these hubs.

**Senator CHRIS EVANS**—I will ask you some questions now about the microcredit enterprise program. Given the announcement from the board last night, what is the current status of this program?

**Mr Myers**—The funding, similar to the hubs, was also extended to 28 February to give the board time to make an informed decision. We have now advised Hillsong Emerge that the funding has ceased—in other words, 28 February is it. IBA itself or the staff of IBA have to now develop and take back to our board a further paper on how IBA might deliver a microenterprise program within its current programs—an extension of current activity. So we have a fair bit of work in front of us. We also need to sit down with Hillsong Emerge and make sure that the current borrowers are taken care of. The contractual arrangements between ourselves and Hillsong Emerge allow for those loans to transfer back to IBA, so IBA actually takes those loans over, and we need to make sure there is a proper transmission of information to make sure that there is no disadvantage to the individual clients.

**Senator CHRIS EVANS**—Would you describe that as basically IBA taking it back in-house?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Are Hillsong Emerge the only people you have funded for this pilot of the microcredit enterprise program?

**Mr Parrett**—The original contract was between ATSIC and Opportunity International Australia, who commenced the pilot in the Many Rivers region. At the same time, ATSIC developed a relationship with Hillsong to further test microfinance in the Redfern and Mount Druitt areas.

**Senator CHRIS EVANS**—So what happened to Opportunity International Australia's contract?

**Mr Parrett**—The original contract of Opportunity International was for two years. At the completion of those two years, we felt that we did not have enough learnings to make a final decision about the product itself, and extended the product to get learnings on microfinance for Indigenous people in remote Australia. It was at that point that the board of Opportunity International Australia decided that actually operating microenterprise development was not their core business, that they were more about fundraising. Because we had a relationship with Hillsong Emerge at that time, and so did Opportunity International, logic was that we use Hillsong to extend the pilot and finalise the learnings.

**Senator CHRIS EVANS**—So when did the relationship with Opportunity International cease?

**Mr Parrett**—I think it was about October 2004.

**Senator CHRIS EVANS**—And you had a two-year relationship with them?

**Mr Parrett**—The original contract was meant to expire about June 2004 due to negotiations in relation to continuing the pilot. With the federal election at the time it extended beyond that period and it was finally resolved in October.

**Senator CHRIS EVANS**—Where did they operate the credit enterprise out of?

**Mr Parrett**—Originally it was in the Many Rivers region at Grafton, and Hillsong Emerge were operating out of a small office in Redfern.

**Senator CHRIS EVANS**—Sorry, I am asking about Opportunity International. Was Hillsong part of that project before—

**Mr Parrett**—Hillsong was part of learnings in the Redfern area for the same period of time that Opportunity International was undertaking the microenterprise in the Grafton region.

**Mr Myers**—They were separately funded—they were separate contracts if that is what you are looking for.

**Senator CHRIS EVANS**—I see, I was getting confused. So the program was called Learnings—

**Mr Parrett**—No, it was called Microenterprise Development.

**Mr Myers**—We were talking about what we were learning.

**Senator CHRIS EVANS**—Fair enough, learnings with a small 'l'. So your original trials were not just with Opportunity International; they were also with Hillsong Emerge.

**Mr Parrett**—The trials in Redfern were more about the capacity building of microfinance rather than the microfinance itself, so it was an activity that added to the Opportunity International broader microenterprise development activities.

**Senator CHRIS EVANS**—Do I take it then that you had two contracts, one with Opportunity International and one with Hillsong?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—So what was that contract with Hillsong for, what was it worth, and what was its duration?

**Mr Parrett**—It commenced in June 2002. As I said, they were also jointly funded by the New South Wales Department of Women, and therefore our funding was quite minor. Over the two-year period the funding was approximately \$100,000.

**Senator CHRIS EVANS**—And what was the aim of that project? You said it added to the learnings of the microcredit.

**Mr Parrett**—It was really trying to get some understanding of how microeconomic development might work in the urban areas as opposed to the regional.

**Senator CHRIS EVANS**—So it was more of a research project? Were they trying to get microcredit up and running or were they just testing the water?

**Mr Parrett**—Their activities were meant to link in with Opportunity International. Therefore if clients were ready to move through to finance then obviously they would move through to finance using the Opportunity International funding.

**Senator CHRIS EVANS**—And what was Opportunity International's contract period?

**Mr Parrett**—Their contract period was from April 2002 through to June 2004.

**Senator CHRIS EVANS**—And what was that contract worth?

**Mr Parrett**—That contract was worth \$1.2 million.

**Senator CHRIS EVANS**—And that was to try to get microcredit enterprises up?

**Mr Parrett**—It was a pilot project to see whether microcredit was a product that should be delivered to Indigenous people. It was also a pilot that was to develop a methodology using some of the learnings from overseas specifically for Indigenous clients in Australia. It was also to develop training packages and methodologies. If at the end of the pilot the decision was that this was a product that could be delivered, it was to develop the methodology for delivering that product.

**Senator CHRIS EVANS**—In 2004, did you extend both contracts?

**Mr Parrett**—No, we rolled the Hillsong Emerge activities into one contract which covered Redfern, Mount Druitt and the Grafton region and also extended it into the Cape York region.

**Senator CHRIS EVANS**—But you told me earlier you rolled it over because of the election et cetera and you extended it for a while. Was that just for Hillsong or both?

**Mr Parrett**—Both. In June it was extended to 30 September with Opportunity International. During that period we were working with both Hillsong and Opportunity International to work out how to progress.

**Senator CHRIS EVANS**—But you also extended Hillsong until September?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—Where they both given extra money?

**Mr Parrett**—Opportunity International received month-by-month funding during that period to cover its activities.

**Senator CHRIS EVANS**—What was that worth?

**Mr Parrett**—I will have to take that on notice and come back to you.

**Senator CHRIS EVANS**—Was Hillsong the same?

**Mr Parrett**—The total funding throughout that period of 2002 through to September 2004 was \$100,000.

**Senator CHRIS EVANS**—So you did not extend their funding as a result of the extension?

**Mr Parrett**—No, it was a minor funding proposal.

**Senator CHRIS EVANS**—What happened in October 2004?



**Mr Myers**—That is when the decision was made to trial for a further period the pilot at Grafton and the ones in Sydney and Cape York. The advice we were given was that we should not make a long-term decision about whether to get into microfinance based purely on the Grafton experience, which is a rural environment. We needed to further test the concepts in a city environment. The recommendation was to test the nature of the program in a remote area, which is why Cape York was picked.

**Senator CHRIS EVANS**—Who gave you that recommendation?

**Mr Myers**—It was an independent report we had commissioned to see how the pilots were going. That was the recommendation. In other words, it was too early to make a final decision based on the information to date. Before committing to large expenditure, we would be best off doing further pilots.

**Senator CHRIS EVANS**—That was a report to IBA. Who did that, and when did you get it?

**Mr Parrett**—It was an independent evaluation of the pilot at that point, run by Ruth Goodwin-Groen and Owen Stanley.

**Senator CHRIS EVANS**—Were they consultants or something, were they?

**Mr Parrett**—Yes, with expertise in international microfinance.

**Senator CHRIS EVANS**—When did you get their report?

**Mr Parrett**—In March 2004.

**Senator CHRIS EVANS**—I will go back a step. What was the relationship between Opportunity International and Hillsong Emerge? You said they seemed to have a relationship.

**Mr Parrett**—The relationship was predominantly through Leigh Coleman. Leigh Coleman had worked with Opportunity International historically. Obviously, throughout the pilot over the two years, they coordinated the research that they had learnt from the two.

**Senator CHRIS EVANS**—So he was a former employee of Opportunity International?

**Mr Parrett**—I am not sure that he was an employee, but he had certainly worked with Opportunity International on microfinance in overseas situations.

**Senator CHRIS EVANS**—What was Opportunity International's main business?

**Mr Myers**—The Australian arm of Opportunity International raised significant funds for sponsoring microenterprise development in developing economies. Their interest was to see whether that methodology could be useful for Indigenous people in Australia.

**Senator CHRIS EVANS**—So they are an Australian company?

**Mr Myers**—It is an international body with different branches. There is an Australian branch. I do not know how it is incorporated.

**Senator CHRIS EVANS**—I had not heard of them. So you decided to go on with Grafton, Sydney and Cape York as an extension of the trial. How did you award that contract? Was there a tender? Did you call for expressions of interest?

**Mr Parrett**—No, it was not a tender. On the basis that both Opportunity International and Hillsong had been involved in the pilot for two years, we felt that to maintain those learnings we would continue to utilise those bodies. Originally, it was anticipated that Opportunity International would continue with the pilot; however, when their board made a decision that it was not their core business we had to look for an alternative provider.

**Senator CHRIS EVANS**—Did you get an alternative provider—you just expanded Hillsong's role?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—So Hillsong put a proposition to you or you just negotiated it?

**Mr Parrett**—Hillsong put a proposal to us. At the time we asked Opportunity International and Hillsong to put a proposal to us, Opportunity International decided not to but we did have a proposal from Hillsong.

**Senator CHRIS EVANS**—That was to run those three offices.

**Mr Parrett**—The three pilots; the three hubs.

**Senator CHRIS EVANS**—What was the nature of the contract you then negotiated with Hillsong?

**Mr Parrett**—It was a 12-month contract going from October to October of 2004-05 to expand the learnings of the two regions that were currently being undertaken, being Redfern and Grafton or Many Rivers, and to extend the learnings into Cape York.

**Senator CHRIS EVANS**—What was the value of the contract?

**Mr Parrett**—\$1.2 million.

**Senator CHRIS EVANS**—For a one-year contract.

**Mr Parrett**—For a one-year contract but for three regions.

**Senator CHRIS EVANS**—Did that go ahead on time and was it completed?

**Mr Parrett**—With the removal of Opportunity International and the transferring of assets from that contract, there was a delay in the commencement and therefore we extended the pilot until the end of December. Apart from that, it went to schedule.

**Senator CHRIS EVANS**—To the end of December 2005.

**Mr Parrett**—End of December 2005.

**Senator CHRIS EVANS**—So it was a bit slow getting started.

**Mr Myers**—Grafton was ongoing; Sydney needed to be wound up to do more; and Cape York was brand new, so they had to set something up and recruit the right people et cetera, so there were delays there.

**Senator CHRIS EVANS**—Was that the same thing in the sense of the budget including agreed allocation of rent, staff et cetera?

**Mr Parrett**—It included all the costs associated with running the pilot.

**Senator CHRIS EVANS**—But the same sort of deal: you ticked off on the budget, and they were supposed to stick to that. Were there any major changes in the budget over the term of the project?

**Mr Parrett**—No major changes. There was an allocation of some money towards developing a promotional video which promoted the success stories of microfinance in the Many Rivers region, but apart from that they pretty much stayed on schedule.

**Senator CHRIS EVANS**—Did you provide extra funds for that?

**Mr Parrett**—No, it was within the original budget.

**Senator CHRIS EVANS**—I understand there was a total of 14 staff funded under that program—is that right? I think your answer was 12 directly related to the project and two staff, which were the CEO and the manager, enterprise development, who also work on other activities.

**Mr Parrett**—That would be part funded.

**Senator CHRIS EVANS**—Is this the CEO of the hubs or the CEO of another organisation?

**Mr Parrett**—It is Leigh Coleman, CEO of Hillsong Emerge.

**Senator CHRIS EVANS**—So you were part-funding Mr Coleman out of the grant money?

**Mr Parrett**—He was involved in the pilot, so part of the funding was towards his salary.

**Senator CHRIS EVANS**—So you paid 12 staff fully from the grant money. You paid Mr Coleman, the CEO of Hillsong Emerge, funds to cover his role in it, and there was a separate manager, enterprise development?

**Mr Parrett**—Yes. At that time it was a Mark Bromley, who managed the three regions.

**Senator CHRIS EVANS**—Did he stay for the whole of the project?

**Mr Parrett**—He left Hillsong late last year, so he was predominantly there. He had been with Opportunity International and he transferred to Hillsong Emerge.

**Senator CHRIS EVANS**—Who replaced him?

**Mr Parrett**—I am sorry, I do not have that name.

**Senator CHRIS EVANS**—You can take that on notice. How much did you fund those position for? It is an hourly rate?

**Mr Parrett**—I would have to go back and check the files. I am not certain of the details of that funding.

**Mr Myers**—We would have looked at what were comparable rates for the industry. We will have to check it.

**Senator CHRIS EVANS**—In terms of your contract with Hillsong Emerge and the funding of those two positions, was that based on a calculation of how many hours they were likely to put into their roles in the hubs?

**Mr Myers**—We would assume so, but we will need to go back and look at the actual budget.

**Senator CHRIS EVANS**—Perhaps you could take that on notice for me: on what basis you met the salaries of Mr Coleman and Mr Bromley, and how much you paid them during that year for their involvement with that project. Was there any payment to Mr Coleman from the funding of the enterprise hubs project?

**Mr Parrett**—Once again, Senator, I would have to take that on notice and get back to you. I do not have the details in front of me.

**Senator CHRIS EVANS**—I think your answers to my questions on notice, which were very helpful, indicated payments to two other individuals for part-time contributions to the microcredit program, but the answer to the same question on enterprise hubs seems to indicate just 13 staff and no mention of supervisory staff.

**Mr Myers**—We will check that and come back to you.

**Senator CHRIS EVANS**—Could you take it on notice whether or not part of the payment of salaries went to meeting the costs of supervisory staff, whether that went to the costs of the salaries of Mr Coleman and Mr Bromley and how much would have been paid to them or other individuals who had that sort of supervisory role from Hillsong Emerge. Do you know how many Indigenous people were actually employed as part of these programs?

**Mr Myers**—On the hubs there were four full-time staff who were Indigenous.

**Senator CHRIS EVANS**—And on the other program?

**Mr Myers**—Four as well.

**Senator CHRIS EVANS**—Thanks for that. The Sydney microbusiness activity—was that conducted out of the Redfern office?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—It was conducted out of the same office as for the hubs project?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—So there were two Sydney sites—Redfern and Mount Druitt?

**Mr Parrett**—Yes.

**Senator CHRIS EVANS**—Were the other sites—Mount Druitt, Cape York and northern New South Wales—out of Hillsong properties with other programs, or was that the only one?

**Mr Parrett**—The Cape York Experience was coordinated through the Balkanu business hub, which is an—

**Mr Myers**—Indigenous organisation.

**Senator CHRIS EVANS**—No connection to Hillsong Emerge?

**Mr Parrett**—No connection to Hillsong Emerge. And the Many Rivers was just out of office space that was acquired separately.

**Senator CHRIS EVANS**—And Mount Druitt?

**Mr Parrett**—I am not 100 per cent—

**Mr Myers**—We will take that on notice.

**Senator CHRIS EVANS**—Being a West Australian, some of my geography on this stuff is not much good either.

**Senator IAN MACDONALD**—Can I ask Senator Evans if he is going to be much longer, having gone for an hour and a quarter? I have a few questions I want to ask; I have to go to another committee shortly.

**Senator CHRIS EVANS**—Sure. I have about five minutes left on this. Are your questions on this topic or something else?

**Senator IAN MACDONALD**—Not on Hillsong, no.

**Senator CHRIS EVANS**—I was going to say, if they were on this, have a go now. But I should only be five minutes.

**Senator IAN MACDONALD**—No, not on Hillsong.

**Senator CHRIS EVANS**—Okay. What about the assessment of this project—have you done an assessment of the success or otherwise of this project?

**Mr Myers**—There have been a number of ongoing evaluations during the life of the pilots. We have also commissioned a further study. We do not have the final report yet, but we certainly know what the findings are. And then we have done our own in-house assessment of the outcomes and also looked at some of the international experiences with microfinance.

**Senator CHRIS EVANS**—So you have done your own assessment—

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—but you have got a consultant to do a proper evaluation?

**Mr Myers**—An arm's length one as well.

**Senator CHRIS EVANS**—Who is doing that?

**Mr Myers**—Rob Clifton-Steele.

**Senator CHRIS EVANS**—A consultant in this area, I presume?

**Mr Myers**—Yes, we have engaged him to do that.

**Senator CHRIS EVANS**—When do you expect his report?

**Mr Myers**—I think it is still a couple of weeks out yet—the final report.

**Senator CHRIS EVANS**—Yes. But it has sort of been overtaken by your own internal processes really, hasn't it?

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—So what did your own evaluation find?

**Mr Myers**—We see that there are a couple of issues which go to the place of microfinancing in Australia, whether it actually works and what constitutes a microfinance business in an Australian context. One of the issues with microfinance is that a lot of people look at the experiences in developing economies, where a very small amount of money is capable of getting somebody into a business. Based on overseas experiences in Canada, the United States, western Europe and the United Kingdom, the amounts of money to get into

small business and the rules and regulations that sit around small business mean that microfinance takes quite a different shape. We believe that in an Australian context we would probably be better off using the experiences that those countries have already had to look at a product which is more relevant to a developed economy with a small business sector which has to operate in an environment of incorporation and compliance. Also, if we are going to roll out a microfinance product, we need to do it in a cost-effective manner, and the view we came to in-house is that the most cost-effective manner of delivering a program of this nature is as an add-on to our existing activities rather than as a stand-alone product, which has its own inherent overheads.

**Senator CHRIS EVANS**—What did you find about the success or otherwise of the Hillsong programs?

**Mr Myers**—They varied in success. Some pilots were more successful than others. They have taught us a lot in terms of the amount of care and support that is needed to get people into business to start with. The requirement for second and third loans was a learning process for us. So from our viewpoint it has been a very valuable exercise in terms of how we will go about now developing and designing our own product.

**Senator CHRIS EVANS**—In the question on notice that you answered for me you indicated that, as of September 2005, there were only 127 loans written as a result of the program.

**Mr Myers**—Yes.

**Senator CHRIS EVANS**—Has that number been updated?

**Mr Myers**—It has increased. I do not have the final figure. I suppose it is important to bear in mind that the provision of loans itself was not the sole measure; there were a whole range of things that we were funding to be done and the provision of loans was part of the testing methodology.

**Senator CHRIS EVANS**—But it is true that at the end of September 2005 the Sydney office had only written six loans?

**Mr Myers**—At that point in time, yes.

**Senator CHRIS EVANS**—So, with seven staff employed, they succeeded in getting six loans organised?

**Mr Myers**—But the staff there were also attending to the other things that they were being funded to do, such as the production of manuals for a possible roll-out of this program across Australia. They were funded to develop training manuals for both staff and potential clients. So there were a raft of things that had to be done which went well beyond merely writing out loans.

**Senator CHRIS EVANS**—Where was that work being done—in which office?

**Mr Myers**—That was being done in the Sydney office, as I understand it, but I will check.

**Senator CHRIS EVANS**—So the Sydney office produced six loans from seven staff. Cape York produced eight loans.

**Mr Myers**—Cape York had a late start and different circumstances, but, yes.

**Senator CHRIS EVANS**—You could not have been happy with the results, though.

**Mr Myers**—Again, you are looking purely at the number of loans written. We are looking at the total package which we funded, and there was a whole raft of outcomes we were looking for which have been delivered on.

**Senator CHRIS EVANS**—For \$1.2 million and 127 loans averaging \$2,856, you probably could have given them about \$20,000 each not as a loan and still be in front, couldn't you?

**Mr Myers**—We could not have ended up with the information that we were after.

**Senator Abetz**—You would not have had all the other benefits of the manuals et cetera that the witnesses indicated to us.

**Senator CHRIS EVANS**—For a program we are now no longer going to fund.

**Mr Myers**—I said we would not do it through an arms-length delivery mechanism, so the information and the data that have been produced will be extremely valuable for delivering it in house.

**Senator CHRIS EVANS**—It seems to me, on the face of it, that after four years of pilot projects and almost \$2 million we have learnt some valuable experiences.

**Senator Abetz**—That is why you have pilot projects.

*Senator Ian Macdonald interjecting—*

**Senator CHRIS EVANS**—Madam Chair?

**CHAIR**—Are you finished?

**Senator CHRIS EVANS**—I do not want to carry on a conversation with you, Senator Macdonald, without the chair.

**Senator IAN MACDONALD**—I am conscious of the fact, now that you have been going for an hour and twenty minutes, that there are other members of the committee who have questions to ask.

**Senator CHRIS EVANS**—If the chair wants me to have a rest and wants to give someone else the call, that is fine.

**CHAIR**—Do you have questions, Senator Macdonald?

**Senator IAN MACDONALD**—Thank you. I did indicate this earlier to the acting chairman. Where would I find a list of the assistance IBA has given to Indigenous businesses in the last financial year? Is that in your report somewhere?

**Mr Myers**—There are a couple of sources in our annual report. Under the business development program, we identify the number of clients we have assisted. Under the home ownership program, we identify the number of people we have put into home ownership. In the equities and investments area, we detail the specific businesses that we are involved in. Under the two other programs, we do not go to identifying the specific people and individuals, because of privacy requirements.

**Senator IAN MACDONALD**—Are they the programs that Senator Evans has just been talking about?

**Mr Myers**—They are activities that are funded through that business development program.

**Senator IAN MACDONALD**—So they are listed somewhere?

**Mr Myers**—Yes. In our annual report, we list the major activities we fund.

**Senator IAN MACDONALD**—In the last accounting period, what is the number that you helped with business development?

**Mr Myers**—I need to clarify your question, if I may. We do business loans, but we also spend a lot of effort supporting people with after-care once they are in business, mentoring and also pre-business schemes.

**Senator IAN MACDONALD**—But new business loans and new activities?

**Mr Myers**—Thirty-eight business loans have been approved this financial year to date.

**Senator IAN MACDONALD**—Do you know whether any of those are in relation to fishing or aquaculture initiatives?

**Mr Myers**—Yes. Up in the Northern Territory, without going into specifics, we assisted a young Aboriginal male to get into the fishing industry up there through a loan for equipment and working capital. Through a separate program, to reduce the overhead costs for the person to get into the industry, IBA purchased the quota to then lease to that person so as to reduce their exposure during the start-up stages.

**Senator IAN MACDONALD**—Was that the same activity?

**Mr Myers**—Yes.

**Mr Moroney**—We are currently in negotiations with the Western Australian government to jointly fund support for fishing in that state, with each of us injecting around \$5 million.

**Senator IAN MACDONALD**—Great. As you know, there are opportunities for good investments in the Torres Strait at the moment, too. When you say ‘without going into the detail’, are those details available publicly?

**Mr Myers**—No, not when it goes down to the individual person. We do not provide those details because of privacy requirements, and also our legislation prohibits us disclosing financial affairs of individuals.

**Senator IAN MACDONALD**—So it would not say that you made a loan of \$X to Mr Y?

**Mr Myers**—No. What we would disclose is we have made X number of loans, the types of industries that the loans covered and examples of the range of industry sectors.

**Senator IAN MACDONALD**—Is it possible for the committee, if the committee were interested, to get the details of the loans without names being used?

**Mr Myers**—I would need to take that on notice just to make sure we do not exceed, as I said, the privacy requirements and the very tight secrecy requirements of our legislation. That should be all right, but I will take that on notice.

**Senator IAN MACDONALD**—I am not really interested in who did it but in the sorts of things and the general geographic area where you are assisting people. Those are the only



questions I had. I simply want to say while you are here that I, for one, think the IBA do a magnificent job. I think it is one of the great success stories of government. I guess government generally can take credit for setting it up, but it is a great organisation and you do very well, and congratulations.

**Mr Myers**—Thank you.

**Senator CHRIS EVANS**—I do not want the officers to leave without them explaining their assets to me—I raised it with them earlier. You seem to have had a big increase in cash assets. Can you please explain that to me?

**Mr Myers**—Last year with the formal abolition of ATSIC the legislation provided what they deemed class A exempt assets, so we had transferred to IBA all the outstanding business loans and all the outstanding housing loans that previously belonged to ATSIC. While the business program was in the Commonwealth family for a while, both in ATSSIS and DEWR, we also took over all those business loans as assets. So there was a fair injection of assets into the organisation and also some cash came with that. Since then, for example, I think this year we have earned something in the order of \$13 million in loan repayments from business development activity. We have our own equity and investment activity as well where we average quite often across the board 10 or 11 per cent on our investments, so obviously there is a fair amount of cash coming in and out of IBA.

**Senator CHRIS EVANS**—But you have gone from holdings of \$22 million to \$93 million or something. It is quite huge.

**Mr Moroney**—On the overall balance sheet, we were a \$100 million corporation with around 15 resources. I think our current asset base is around \$600 million with a resource base of 150 staff.

**Senator CHRIS EVANS**—I appreciate that. I am just not sure I got the answer to my question, which is: how come your cash holdings have gone from what seem to be about \$21 million to \$81 million?

**Mr Moroney**—There are a number of sources of cash into the organisation. The home ownership program, for example, which is close on \$400 million, has a number of discharges during the year, which means that we are balancing cash quite a bit. I think we write something like \$92 million to \$94 million a year in loans, but there is money coming in constantly in that program as is the case with some of the others. In our equity program, we have normally carried around \$20 million in cash, which is the interest that we receive from our investments and the money we use to support our operational arrangements as well.

**Mr Myers**—That figure also, as the general manager said, includes the cash balance of the housing fund, which is a fixed fund in legislation. The money can only be used for housing loans and nothing else and the repayments that come in each year have to go back into that fund. The cash balance of the fund is included in that figure you are quoting. So in that fund, as the general manager has said, in any 12-month period there would be \$50 million of loan discharges coming in—

**Senator CHRIS EVANS**—I understand that, but the figures for one year compared to the other seem to be vastly different. All that may be true. I am just trying to understand why one year in the same period—what has changed to go from \$20 million to \$81 million?

**Mr Myers**—You are looking at 2004, which is pre abolition of ATSIIC. In 2005, ATSIIC was abolished and the home ownership program and the business development program transferred into IBA. It came in in March.

**Senator CHRIS EVANS**—Thank you.

**CHAIR**—There being nothing more on Indigenous Business Australia, I thank the witnesses.

[3.00 pm]

**CHAIR**—We return now to outcomes 1 and 3.

**Ms Golightly**—The answer to Senator Wong's question from this morning regarding how much money had been recovered since April for the JSCI issue, apart from any current investigations, is \$13,000.

**Senator WONG**—I asked for the total money, too. How much had been repaid, including by the companies under investigation, as a global figure?

**Ms Golightly**—I am sorry; I cannot give any information about the current investigations.

**Senator WONG**—Hang on. I am asking for money actually paid back.

**Senator Abetz**—I think that is understood.

**Senator WONG**—I am conscious of—and I am terribly sorry but I have forgotten his name—

**Senator Abetz**—Mr O'Sullivan?

**Senator WONG**—Mr O'Sullivan's suggestion of the importance of us not impeding any investigation, but I am not asking for details or a disaggregation. I am asking for a figure of the amount of moneys that have been repaid to the department in total as a result of manipulation of the JSCI.

**Senator Abetz**—It is fairly easy, Madam Chair. Senator Wong has been given a figure of \$13,000—

**Senator WONG**—No, that is not to that question.

**Senator Abetz**—Now, asking the further question that she has; for example, if the answer were \$9,013,000, you would not have to be Einstein to try to figure out and triangulate all the information. That is why the official is, quite rightly, following the very wise counsel of Mr O'Sullivan.

**Senator WONG**—I would like to know on what basis, possibly, it is suggested that disclosing to this committee, and to the public, how much taxpayers money has had to be repaid, and has in fact been repaid, could possibly prejudice legal proceedings. I would ask for that. I am going to ask for advice from the Clerk, and I would ask that the officers actually explain how it would be prejudicial.

**CHAIR**—Perhaps you might like to hear the chair's view first. The chair's view is that you have asked a question and you have received an answer. To go any further with the details of that is part of the totality of the question which we dealt with before lunch. To provide details of those companies or organisations may well be prejudicial to proceedings.

**Senator WONG**—I am not asking for that.

**CHAIR**—To my mind it is, Senator, and that is my view.

**Senator WONG**—I am not asking for that. I am asking for a global figure.

**CHAIR**—I understand you have been given that.

**Senator WONG**—No, I have not. The point is: this is in relation not to the total amount. The answer that was given is not the total amount of repayments, it is the total amount excluding the matters under investigation. I am not asking how much more money is under investigation, I am not going to ask who the providers are which are under investigation. I want the total amount to date that has been repaid at a global level. I respectfully suggest that that is perfectly in order. If the issue of prejudice to future legal proceedings is raised, I would respectfully ask that the basis of that be determined, and then I will consider whether or not I will be seeking advice from the Clerk.

**Senator Abetz**—Chair, I think I have answered that, and it appears as though we were not at cross-purposes and I had understood what Senator Wong was asking. She asked a question as to the amount that had been repaid apart from those fewer than five organisations—

**Senator WONG**—I asked for both, actually, Minister.

**Senator Abetz**—that were currently under investigation. She was given the figure of \$13,000. She is now asking—

**Senator WONG**—No, I asked for both before.

**Senator Abetz**—She is now asking for the global figure. Once given the global figure, it would be a very easy mathematical calculation to subtract \$13,000 to know exactly what amount was in relation to those fewer than five under investigation. As I indicated earlier, if the figure is, for example, \$9,013,000 then we would be able to finger a particular organisation, on the basis of press reports. We might be able to determine that it relates to a particular organisation. For the reasons Mr O'Sullivan and I have explained, being able to identify specific amounts to the small number of organisations under investigation is potentially prejudicial.

**Senator WONG**—Mr O'Sullivan, can you explain to me how evidence as to the amount of money which has already been paid back to the Commonwealth—that is not under investigation—that has in fact occurred, without reference to the agency by whom it is being paid back, prejudices legal proceedings, if that is your assertion?

**Mr O'Sullivan**—I think I have got to be careful, because I am the department's lawyer. I think it would be improper for me to give you advice in that regard, because that may well have the character of legal advice.

**Senator WONG**—No. The department has to indicate to the committee that there is a general procedure, or general rules, that apply to estimates committees. The department is

raising, as a barrier to answering a question, this issue of prejudice of future legal proceedings. I have had a discussion with the Clerk about this, and the appropriate course of action, as I understand it, is that the committee consider a witness's expression on this issue—consider the facts and propositions that a witness might put up as to why they ought not have to answer a question—and then should make a determination about that. I am happy to observe appropriate procedure. I want to know what it is that prejudices future legal proceedings for the department to provide evidence as to the amount of money they have already received—that you have already got. As people will recall, it is actually taxpayers' money that we are talking about.

**Mr O'Sullivan**—It is very difficult at this stage of an investigation into any matter to predict what may or may not be the subject of dispute in likely or possible court proceedings. I do not think I am in a position—

**Senator WONG**—How can they dispute something they have already paid back?

**Senator Abetz**—It potentially goes to the facts of the case. It is like when somebody is charged with an offence; quite often the view is that the person's photograph or image should not be shown—

**Senator WONG**—That is a political answer. I am asking, in good faith, for the department—

**Senator Abetz**—No, it is a legal answer.

**Senator WONG**—You are not a lawyer here to advise the committee. The department has been asked for an explanation as to why they refused to answer the question—

**Senator Abetz**—Can I finish, Senator Wong?

**CHAIR**—Order! One speaker at a time, please. Minister, finish what you are saying and then I will allow Senator Wong to speak.

**Senator Abetz**—When it goes to the potential facts of a case you have to be very careful. That is why in criminal matters somebody's image is quite often deliberately blurred on the TV or in photographs in the newspaper if there is the potential, as there often is, as to the identity of the person if that is going to be in question. You can never foretell exactly what all the issues are that are going to be raised by the defence in a matter. Therefore those that have the investigation under hand have to be very careful in the disclosure of information because it might prejudice the defence. If it prejudices the defence it may well prejudice the prosecution of a matter if it gets to that stage. That is why Mr O'Sullivan's injunction to us is very proper.

**Senator WONG**—Minister, what I am asking for is this: I have asked a question that the officers are declining to answer on the basis that it may prejudice further investigations. I am asking, very simply, for an articulation as to why that is the case, given that what I am asking about is something that has already occurred, is not disputed and does not identify the individuals or agencies concerned. Once that is given, I will ask, Chair, that the committee obtain some advice from the Clerk about this matter. I propose that once that explanation is given that I move on to some different topics and then in the adjournment request that the committee consider this matter.

**CHAIR**—Dr Boxall, do you wish to consider your position on that or do you wish to—

**Dr Boxall**—Chair, Mr O’Sullivan is going to make some points in addition to the points that the minister just made.

**Mr O’Sullivan**—By way of assistance, this may help our conundrum. What may or may not have been agreed between parties to a contract is one thing. The subsequent possible legal proceedings that may follow may not necessarily be between the parties that have agreed certain things. An issue that we canvass now might, for example, in a fraud investigation, be a matter that is in dispute in that context. That is where we might trespass on areas whereby defendants in a fraud investigation might say, ‘That was useful to my defence and you, Mr O’Sullivan, knowing that you were giving that evidence under parliamentary privilege and could not be cross-examined against it in my legal proceedings, are putting me at a disadvantage.’ Courts are much more likely to terminate criminal proceedings for reasons of unfairness to a defendant in those circumstances.

**Senator WONG**—I do not think that will arise, Mr O’Sullivan, given what I am asking. I am not asking for what you might have agreed, what the terms of the repayment might be et cetera. I am asking about the global amount that has been paid back to the Commonwealth. That is an ascertainable fact. That is a fact that the department is aware of, that is a fact that in the context of legal proceedings could be adduced from a variety of other sources. It is not dependent on cross-examination of what is provided here. It is an easily ascertainable fact. So how—

**Senator Abetz**—But other sources do not have parliamentary privilege attached to it.

**Senator WONG**—I hadn’t finished.

**CHAIR**—Order! Senator Wong has the floor.

**Senator WONG**—So, Mr O’Sullivan, can you please explain to me how it is that this department disclosing to this estimates committee the global amount of moneys paid back to the Commonwealth as a result of this fiasco can possibly prejudice legal proceedings?

**Dr Boxall**—Madam Chair, the first point is that there is no fiasco. This is a contract management issue. The second point is that the department has made its position very clear, and the minister, who can speak for himself, has made the position very clear, and we cannot really add to our position at this point.

**CHAIR**—I understand that.

**Senator WONG**—Okay. Could I request that we get some advice from the Clerk in the break and I will move on to other matters now.

**CHAIR**—That is up to you, Senator Wong.

**Senator WONG**—Well, I am requesting a meeting of the committee, Chair, so I do not think that is up to me. That is a matter for the committee.

**CHAIR**—Yes, it is a matter for the committee, but I must tell you that my ruling will be that Mr O’Sullivan is totally within his rights.

**Senator WONG**—Without the advice from the Clerk, Madam Chair? Is that the position the government takes these days—

**CHAIR**—My ruling is as I have indicated.

**Senator WONG**—when senators raise the issue of advice from the Clerk?

**CHAIR**—I understand that that is what you have done. You are moving on to other matters for the moment?

**Senator WONG**—I am. Can we go back to the star ratings issue we were discussing before lunch, please. I think, Ms Golightly, you indicated that subsequent to the investigations, if there were a need to alter the star ratings as a result of the alleged manipulation of the JSCI updating, that would be done?

**Ms Golightly**—Yes.

**Senator WONG**—Is it possible that a Job Network member might have suffered some economic detriment in the past, such as losing business, because another member had more business awarded to them because of their manipulation of JSCI updates?

**Ms Golightly**—No.

**Senator WONG**—It is not possible?

**Ms Golightly**—I am not aware of any. And the final contract decisions on business shares have not been made and will not be made until March.

**Senator WONG**—Hang on; when were the last star ratings done? Don't you do them every six months?

**Ms Golightly**—We do, Senator, yes.

**Senator WONG**—That is right. And those six-monthly ratings affect the flow of work to Job Network members, don't they?

**Ms Golightly**—Yes, they do.

**Senator WONG**—Yes. And I think you indicated before that they were relative ratings, didn't you?

**Ms Golightly**—Yes.

**Senator WONG**—Therefore, if one Job Network member essentially performed less well than another Job Network member who had allegedly manipulated JSCI outcomes, is it possible that could have been reflected in star ratings which have previously been awarded?

**Ms Golightly**—It is hypothetically possible, Senator, but these particular investigations relate to the star ratings which are being used or would be used in the current purchasing process—which is why we are seriously looking at the issue of whether or not they need to be updated.

**Senator WONG**—But the department became aware of a problem in April-May last year and you indicated that there have been star ratings since that time.

**Ms Golightly**—There have, Senator, but I think I also mentioned that the star ratings also take account of the job outcomes and that is 13 to 26 weeks later. So the periods in which we identified some issues would have affected the star ratings late last year, in late 2005.

**Senator WONG**—You have said you are aware of concerns on this issue being raised by Job Network members.

**Dr Boxall**—One concern.

**Senator WONG**—You are aware of one.

**Dr Boxall**—The department is aware of one—

**Senator WONG**—I think it is wonderful how you can know the minds of all your officers, Dr Boxall!

**Senator Abetz**—We had this evidence before.

**Dr Boxall**—We had the evidence before lunch.

**Senator WONG**—And, as I recall, Dr Boxall changed his answer, Minister. So perhaps it is not unexpected that I might ask to check whether this is the only one officers are aware of.

**Dr Boxall**—In the evidence before lunch, I corrected the answer when I received new information. During lunch I received no further information, so the position stands as before lunch. The position before lunch was that we have received one concern. The point that Ms Golightly made was that the issues that were being looked at after April and May have not had the potential to affect star ratings and, in turn, business allocations because there has been insufficient time to do so.

**Senator WONG**—Can you give an assurance, Dr Boxall, that the alleged manipulation of the JSCI by some providers has not affected the current star rating cycle?

**Dr Boxall**—The point that Ms Golightly was making was that the way the issues that were looked at in April and May would impact on the star ratings is that the effect that they would have had, if any, on outcomes would have been fed into the star ratings, which were towards the end of 2005. I am advised that there has been no allocation of business since then based on a star rating.

**Senator WONG**—So do you give an assurance that the star ratings have not been affected by the manipulation by some Job Network members of the JSCI update process?

**Dr Boxall**—Mr Manthorpe has advised that we did move a small amount of business around at the end of last year but that any impact from the investigations around April and May would not have had an impact on the reallocation of business through the stars.

**Senator WONG**—Perhaps you can tell me about that, Mr Manthorpe. Is that related to this issue or unrelated?

**Mr Manthorpe**—I might first comment on the matter that came up before lunch—that is, the one Job Network member in respect of whom there is an assertion that the JSCI upgrade activities of one provider may have impacted on their relative position. The important point to note about that is that the final decisions about contract extensions and business levels for the new contract period have not yet been taken. So the concern that that provider has expressed to us about that eventuality is still in the mix. There is no decision that has taken away their business at this point.

**Senator WONG**—Unlike you, Mr Manthorpe, I was not intending to ask about details about that particular provider's situation as I thought it would not be appropriate but you have chosen to do that.

**Mr Manthorpe**—I have not identified the provider. I am talking about the circumstances.

**Senator WONG**—I cannot ask questions about four, but you have spoken about one. If we find out who that is, we are going to know about that. But that is a different issue. Can the department give an assurance that there was definitely no false upgrading of job seekers via this updating of the JSCI before the current star ratings were issued?

**Ms Golightly**—The investigations about whether there has been false upgrading or not are still continuing.

**Senator WONG**—So it is possible that there might have been, hypothetically.

**Dr Boxall**—It is theoretically possible but highly unlikely because the amounts are so small that they are likely to have a very small impact, if any.

**Senator WONG**—‘The amounts are so small.’ You know that, but I do not know that.

**Dr Boxall**—That is why we are having this discussion—because you asked the question and I am answering it.

**Senator WONG**—I do not know what the amounts are because you will not tell the committee.

**Dr Boxall**—I just told you the amounts are so small that the impact on the star ratings is likely to be negligible.

**Senator WONG**—Has the department considered whether any legal action might ensue from Job Network members who believe they have lost business as a result of the star ratings being perverted by the JSCI updating issue?

**Dr Boxall**—It is an issue for Job Network members if they want to take legal action against the government.

**Senator WONG**—Has the department sought any legal advice on that issue?

**Ms Golightly**—No.

**Senator WONG**—When is the next round of the star ratings revision?

**Ms Golightly**—The next published stars?

**Senator WONG**—Yes.

**Ms Golightly**—That is currently the subject of a brief to our minister.

**Ms Caldwell**—They are usually published around this time of year—

**Senator WONG**—Yes, I thought so.

**Ms Caldwell**—and were on schedule for the normal publishing schedule, subject to the ministers deciding on dates for release.

**Senator WONG**—And you do it twice a year?

**Ms Caldwell**—The public release is normally twice a year.



**Senator WONG**—When you say ‘public release’, is there a more frequent internal process?

**Ms Caldwell**—For example, in the context of the contract extensions that we were talking about a moment ago, we did an additional round associated with updating, which was not a public release document that we used for internal information.

**Senator WONG**—How will the department deal with a suggestion by a Job Network member that they have suffered economic detriment through loss of business as a result of the star ratings being undermined by this JSCI issue?

**Ms Golightly**—Perhaps I can start and others might add to it. If there was any query or concern about anything from a Job Network member, we would of course analyse it to see if there was a base for that concern and go from there.

**Senator WONG**—Once the investigations are concluded, the issue that I am asking about could actually pre-date this matter coming to the department’s attention and certainly go back to April-May last year.

**Ms Golightly**—I am not entirely sure of the point of the question. I might not be following you—

**Senator WONG**—It was probably poorly expressed. I think your evidence was that you might take that into account when you next did the star ratings. I am asking how you might deal with past economic loss which is not dealt with by the star ratings. That is my point.

**Ms Golightly**—Okay. Whenever we do business allocation, star ratings is one of the things that we take into account. If we know of and have evidence of other matters which would go to the performance or unsatisfactory or satisfactory performance of the contract, that is also taken into account when we do business reallocations as a normal part of the process. We also take into account things like the coverage that is offered to job seekers in terms of locations and things. So it is just one matter. If we are aware of evidence of noncompliance with the contract, that would also be taken into account.

**Senator WONG**—In the current advice to government—I understand you said that the star rating issue was before the minister—was the alleged misapplication of the JSCI updating process taken into account in determining the proposed star ratings?

**Senator Abetz**—Chair, this all sounds very hypothetical.

**CHAIR**—At the conclusion of this question, Minister, I will call the afternoon tea break.

**Ms Golightly**—The knowledge that we have to date has been taken into account but I think, as we have given evidence earlier, the investigations are not yet complete. So, if subsequent information becomes available, then there might need to be a further adjustment or there might not.

**Senator WONG**—Thank you.

**CHAIR**—After the tea break, at 3.45 the committee will hold a brief private meeting.

**Proceedings suspended from 3.30 pm to 3.59 pm**

**CHAIR**—The committee is reconvening. I ask Senator Wong to ask her question.

**Senator WONG**—My question was this: could the department please provide the amount of moneys which have been repaid to the Commonwealth as a result of, or arising out of, the problematic updating of JSCIs?

**CHAIR**—As chair I should say that as a result of the committee meeting that we have just held, for the reasons that the minister has explained, the officer need not answer the question. There was dissent from this ruling, but as chair this is my ruling. We will go on with questions.

**Senator WONG**—Can I just go back to the star rating issue that we were discussing before the break? The star ratings are generally, obviously, subject to ministerial discretion and are published in June and December. Is that right?

**Ms Caldwell**—They are actually published, usually, a month or two after that. The star ratings end on 30 June, and they are usually published six to eight weeks after that conclusion. Similarly, the star ratings referring to the period completing on 31 December each year are similarly published in the course, usually, of February.

**Senator WONG**—The system of allowing the job network members to update the JSCI has been in place, I think the evidence is, since July 2003.

**Ms Golightly**—That is correct.

**Senator WONG**—The evidence of the department is that irregularities or problematic trends were noticed in April-May 2005.

**Ms Golightly**—A trend was noticed then, yes.

**Senator WONG**—You assert it is not irregular?

**Ms Golightly**—I think you mentioned ‘problematic’.

**Senator WONG**—Was it sufficiently irregular or problematic to warrant further consideration?

**Ms Golightly**—It was sufficiently anomalous to warrant further consideration.

**Senator WONG**—Okay. But, in fact, the system had been in place since July 2003?

**Ms Golightly**—That is correct.

**Senator WONG**—It is quite possible that there were anomalous reclassifications in the period from that date?

**Ms Golightly**—It is quite possible and may well have been; it is also quite possible that there were not. I think we also provided evidence that that is not the only contract-monitoring exercise that we undertake.

**Senator WONG**—How many business reallocations—is that the right phrase? You reallocate?

**Ms Golightly**—Yes.

**Senator WONG**—How many business reallocations have there been since July 2003?

**Mr Manthorpe**—Three.

**Senator WONG**—And there has been at least one business reallocation since the anomalous trends were observed?

**Mr Manthorpe**—There has been one, yes.

**Senator WONG**—Can the department give an assurance that the inaccurate updating or reclassification has not had an impact on any one of those business reallocations?

**Ms Golightly**—I will start the answer and Mr Manthorpe might be able to add more detail. I think I mentioned earlier today that the transactions that might be in question, because of lead times for them to flow through the system, would not have affected the star ratings before the August ones, when we looked at them for the current purchasing issues. There was a small amount of business reallocated at that time, but not in a way that would have been affected by the outcome, or what might be the outcome, of the current investigations.

**Senator WONG**—I do not quite understand that answer.

**Ms Golightly**—I think there are a couple of things here. The first thing is that, to affect the star ratings, the upgrades had to lead to a job outcome. That is not necessarily the case. They also have to be in volumes which are sufficient to affect the star ratings. I think Dr Boxall mentioned before the break that there are very few of them.

**Senator WONG**—Very few meaning 24 per cent of 155,000?

**Ms Golightly**—That was how many upgrades had been done, not how many were invalid.

**Senator WONG**—Okay.

**Ms Golightly**—There is also the issue that the August star ratings—

**Senator WONG**—August, which year?

**Ms Golightly**—The year 2005—are being used to inform the current purchasing process, the decisions against which will not be made until the end of March this year.

**Senator WONG**—If the investigations are not determined by that time, how can you take it into account when you reallocate work in March?

**Ms Golightly**—When we are looking at purchasing decisions—or, in the normal course of events, business reallocation—we take into account a number of things. One of them is star ratings; one of them is evidence that we might have at hand. Obviously, we gather evidence throughout an investigation.

**Senator WONG**—I am having trouble hearing you.

**Ms Golightly**—Oh, I am sorry.

**Senator WONG**—No, that is probably me. Could you say that again?

**Ms Golightly**—When we are doing the purchasing process, but also for normal business allocation, we are allowed to take into account a number of factors before deciding on contracts or levels of business to be awarded. One of those things is star ratings, but it is not the only thing.

**Senator WONG**—Okay. Let us go back from August 2005. I can accept that—you might take it into account there, because it has already been brought to your attention—but what

about December 2004 or August 2003? If you have noticed a trend by April-May, it is possible that that relates to activities prior?

**Ms Golightly**—It is theoretically possible, but we have been investigating this in detail.

**Senator WONG**—Have you taken that into account in the star ratings that were issued, for example, in December 2004 and subsequent business reallocation decisions?

**Ms Golightly**—As I think I have explained, because of the lead times involved to actually get a job outcome, the only star ratings that could have been affected were the ones published in August.

**Senator WONG**—So you can give an assurance that they are the only ones that could have been affected and that no other ones, prior to that date, would have been affected?

**Ms Golightly**—Not that we are aware of.

**Senator WONG**—There was a business reallocation in September of last year?

**Mr Manthorpe**—That is right.

**Ms Golightly**—It would be August-September, yes.

**Mr Manthorpe**—That is the one that I was referring to.

**Senator WONG**—So that is the one where there could have been an affect from the reclassification issue?

**Ms Golightly**—The August star ratings are being used mainly for the purchasing process which is currently under way.

**Senator WONG**—Sorry?

**Ms Golightly**—First star ratings have been used to inform the purchasing process which is not yet finished. There was a small amount of business, I think I mentioned before, that was reallocated at that time, but it is my understanding that this was in employment service areas not affected by the current investigations.

**Senator WONG**—Would the June star ratings have affected previous business reallocation?

**Ms Golightly**—No.

**Senator WONG**—It is all post.

**Ms Golightly**—Yes.

**Mr Manthorpe**—The business reallocation is a prospective exercise each time, so it goes forward.

**Senator WONG**—I understand you are saying that you will take into account this issue of the updating of JSCIs in terms of your future consideration of star ratings, yes?

**Ms Golightly**—Correct.

**Senator WONG**—But if there has been financial loss previously that does not fix it up?

**Ms Golightly**—There is no evidence that there has been previous financial loss.

**Senator WONG**—Have you inquired?

**Ms Golightly**—We are the ones who do the business reallocation; we know where the business has gone and on what stars and in which employment service areas, or ESAs, it happened.

**Senator WONG**—Have you undertaken an investigation to consider whether or not any of the Job Network members who are currently being investigated for misuse—I do not know what term you might wish me to use—of the reclassification have obtained as a result of that a better star rating than they would otherwise have had, thereby gaining a greater share than they would otherwise have had of the business allocation? Have you investigated that issue and from what date?

**Ms Golightly**—Yes.

**Dr Boxall**—The testimony is that, since the star ratings came out in August, there has been no business reallocation apart from a relatively minor exercise in September, and Ms Golightly has just testified that that minor exercise in September was not in ESAs which might have been, and we do not know for sure, which might have been impacted by the anomalies which were investigated in April-May, so it is a non-issue.

**Senator WONG**—You may say it is a non-issue; that is a matter of opinion, I would have thought. But I am actually wanting to ask about previous reallocations. I understand your argument in relation to August-September: I am asking whether or not the department has investigated whether any of the business allocations which occurred in 2004 may have been affected by inappropriate updating of job seekers.

**Ms Golightly**—I think we have already answered that, but the two issues here are that we know the particular transactions—we are in the process of investigating—and we know the dates of those transactions, so we are able to tell which star ratings they may or may not affect.

**Senator WONG**—So you have investigated it?

**Ms Golightly**—We are investigating the—

**Senator WONG**—There are two issues. One is the investigation about what providers might have done. I am asking about the effect on other providers and, as I understand your evidence, you have suggested that the only time that this could have become relevant is August 2005, and I suggested to you that it is possible that it is not the case, and you talked about how you dealt with it within the context of the August or September reallocation of business. I am asking whether you have undertaken any investigation in relation to business reallocations prior to that date, whether you have audited or considered those business reallocations and whether the star ratings were affected by this updating issue?

**Dr Boxall**—I think Ms Golightly testified that, for the anomalies that were investigated as of April-May, there is no evidence that they impacted the previous star ratings.

**Senator WONG**—I am asking whether that was investigated.

**Dr Boxall**—That is what she testified. Why would she say that? Because she and her staff have been working on investigating the anomalies arising from the April-May exercise, and what she, on behalf of the department, is telling the committee is that there is no evidence that these anomalies which have been investigated thus far impacted on the earlier star ratings.

**Senator MARSHALL**—So the answer was yes, then?

**Dr Boxall**—No, that is the answer that I just gave, which is the same answer that Ms Golightly gave.

**Senator MARSHALL**—So there has been an investigation?

**Dr Boxall**—I do not know whether you call it an investigation or what.

**Senator MARSHALL**—Well, what do you call it?

**Dr Boxall**—The question is that, in the process of investigating the anomalies, there is no evidence that they impacted on previous star ratings.

**Senator MARSHALL**—So there was an investigation?

**CHAIR**—I think Dr Boxall used the term ‘examination’ before, and I think that is a good example.

**Senator MARSHALL**—He just used ‘investigation’ now.

**CHAIR**—Yes, but he had earlier used the word ‘examination’.

**Senator WONG**—So the department can assure providers that there was no impact on business reallocation prior to August 2005?

**Dr Boxall**—What the department can ensure providers is that there is no evidence which we have uncovered ourselves or that anybody else has presented to us that these anomalies which were investigated in April-May had any impact on star ratings prior to that.

**Senator WONG**—Can I go to the issue of wage subsidies, which I think we previously discussed. I understand DEWR has issued instructions to Job Network members in relation to wage subsidies and that wage subsidies of 100 per cent or more require the agreement of the relevant contract manager—is that correct?

**Ms Golightly**—I understand that is correct, yes.

**Senator WONG**—How long have those instructions been in place?

**Ms Caldwell**—Since April 2005.

**Senator WONG**—Around the same time these anomalies were noticed?

**Dr Boxall**—By coincidence.

**Senator WONG**—At that time was the department aware of providers who were paying wage subsidies in excess of 100 per cent?

**Ms Caldwell**—Yes.

**Senator WONG**—Up to 150 per cent?

**Ms Caldwell**—I would not know the proportion. Subsidies of more than 100 per cent were not prohibited by the guidelines or requiring of advanced approval at that stage.

**Senator WONG**—You are not asserting, I assume, that it is an effective use of taxpayer money to pay wage subsidy in excess of the wage?

**Ms Caldwell**—The guidelines prior to April 2005 did not preclude wage subsidies of that nature.

**Senator WONG**—I asked whether or not it was an efficient use of taxpayers' money to pay a wage subsidy in excess of the wage.

**Dr Boxall**—That is calling for comment on government policy.

**Senator WONG**—It probably is, actually. I concede that. When the department became aware of wage subsidies in excess of the wage being paid to employees, did the department undertake either investigation or examination of those issues?

**Ms Caldwell**—The use of wage subsidies and other uses of the job seeker account are monitored through our regular contract management framework.

**Senator WONG**—In relation to how many job seekers, are you able to tell me for how many job seekers prior to the change in policy was a wage subsidy in excess of 100 per cent paid?

**Ms Caldwell**— I would not be able to tell from the data. We did not categorise it as being a proportion of the wage.

**Senator WONG**—So you did not even collect data as to the relationship between the wage subsidy and the wage; is that right? I will ask it again. There is probably a better way of asking it. Prior to April 2005, did you collect any data on the payment of wage subsidies in excess of the wage?

**Ms Caldwell**—We collected data on wage subsidies. We did not collect comparison data of the wage cost.

**Senator WONG**—So until April 2005 you were unable to determine as contract managers whether or not a wage subsidy being paid was more than 100 per cent of the wage?

**Ms Caldwell**—No, we did not routinely require that comparison to be recorded, but in any cases that we wished to look into we could call for that information.

**Senator WONG**—Ms Caldwell, you just gave evidence that you did not record the comparison.

**Ms Caldwell**—We did not collect the data.

**Senator WONG**—How did you become aware of wage subsidies in excess of 100 per cent?

**Dr Boxall**—Through other avenues and contract monitoring.

**Senator WONG**—As a result of the contract monitoring, can you tell me about the pattern of engagement in this practice? How many providers were doing it? How widespread was it?

**Ms Golightly**—I do not think we have that information.

**Senator WONG**—Do you not know for how long or for how many providers and for how many job seekers taxpayers are actually paying more than the wage?

**Ms Golightly**—I think it also depends on the time frame. The guidelines did allow it, and from our contract monitoring exercises I would suggest it was very few. That is the best information I have.

**Senator WONG**—I am sorry, I was distracted as a document was handed to me. Could you repeat that? I apologise.

**Ms Golightly**—I was just saying that the guidelines did allow it, but through our contract monitoring we became aware of some. I do not have any information on that except to say that our feeling was that it was very few.

**Senator WONG**—Your feeling?

**Ms Golightly**—Our knowledge on what evidence we got from contract monitoring.

**Senator WONG**—What was the evidence?

**Ms Golightly**—I do not have it here. It was never raised within the department as being a big issue. In any case, it was allowed by the guidelines.

**Senator WONG**—The contract and the guidelines previously permitted it?

**Ms Golightly**—That is correct. It is also relevant to consider the time frame.

**Senator WONG**—Why was that decision made, to enable a Job Network provider to pay—using taxpayers' funds—a wage subsidy in excess of the wage and then collect an outcome payment on top of that?

**Ms Golightly**—It goes to the flexibility of the job seeker account, which we I think have discussed before. The reasoning behind the job seeker account as a whole is to tailor the assistance dependent on the particular job seeker. If that job seeker is in employment as a result, particularly if it is sustained employment, then one could argue it was a good use of taxpayer funds.

**Senator WONG**—How many didn't fall into that category and how many did? What proportion? Did you investigate this? You said—I do not know if you used the term 'investigated'—that you contract monitored it. What sort of data did you come up with? What did you find?

**Ms Golightly**—I think the reports that I am aware of did not find it to be a major problem. It was allowed by the guidelines.

**Senator WONG**—I understand that, which is an issue in itself. Which reports are you aware of?

**Ms Golightly**—The regular feedback that we receive in the department from our contract managers.

**Senator WONG**—Is there a written reporting process?

**Ms Golightly**—No. Like everybody else, we discuss things. There may well be a piece of paper somewhere, but I could not tell you whether or not there was.

**Senator WONG**—You cannot tell us how much money was spent until the change in procedure for wage subsidies in excess of 100 per cent?

**Dr Boxall**—No, as Ms Caldwell has testified, we cannot do that. We can tell you how much was spent on wage subsidies but not how much was spent on wage subsidies which were half the wage, which were three-quarters of the wage, which were 100 per cent of the



wage or 125 per cent of the wage. We cannot do that. We can only give the figure for wage subsidies.

**Senator WONG**—The decision to require a sign-off or approval by the contract manager was put in place by the previous minister?

**Dr Boxall**—It was put in place by the department. It is the departmental guideline. But clearly the previous minister was involved in the preparation of the guidelines.

**Senator WONG**—Since that time when the agreement of the contract manager has been required, have guidelines been issued to determine how that agreement is considered, in other words, on what basis someone should agree or not agree?

**Ms Caldwell**—The contract managers will be guided by the job seeker account expenditure principles, which are available also to Job Network members proposing such arrangements.

**Senator WONG**—How many wage subsidies in excess of 100 per cent have been agreed to since this new system was put in place?

**Ms Caldwell**—We would need to take that on notice. We do not separately collect that.

**Senator WONG**—Your own people actually agree to it. Surely you now track that data?

**Ms Caldwell**—We can have that in the course of this afternoon.

**Senator WONG**—There were a few things on notice apart from the disputed matters. I have two copies of guidelines. Were they all the issues that we were—

**Ms Golightly**—Sorry, I did not hear the last bit?

**Senator WONG**—You took on notice a number of things prior to lunch, apart from the dispute matter. You have provided some documents to the committee.

**Ms Golightly**—Yes.

**Senator WONG**—I am asking whether there is anything further.

**Ms Golightly**—The documents that you have there are what we have been able to source in the time available. There are many updates to those throughout the last however many years it is since 1 July 2003. That is going to take a bit more time. But what you have there is the guidance that was available at the beginning of the contract and also the latest version, which is fairly similar.

**Senator WONG**—On how many occasions has this been revised?

**Ms Golightly**—Sorry?

**Senator WONG**—On how many occasions has this been revised?

**Ms Caldwell**—We also update it by bulletins. We had a revision in December 2003. That is the original August 2003 publication that related to the start of the market in July. We had a further update in the December. We also had an update in September of this year. In addition, there is other guidance materials provided through training materials and bulletins on a progressive basis.

**Senator WONG**—The user guide for updating and creating addresses and job seeker circumstances was revised on four occasions, was it?

**Ms Caldwell**—Four occasions that we have reissued it as a consolidated form. But they are updated via updates.

**Senator WONG**—Can you also on notice perhaps provide me with the number of bulletins relating to this issue in the same period?

**Ms Caldwell**—We would have to take that on notice.

**Senator WONG**—Yes, I said that.

**Ms Golightly**—Another question we had taken on notice was a matrix of the various income support outcomes and the payments. If the chair—

**Senator WONG**—This is what Job Network members get paid?

**Ms Golightly**—Yes, for various job outcomes, yes.

**Senator WONG**—Is the department through contract monitoring or investigation considering allegations that Jobsearch training claims are not being delivered?

**Ms Golightly**—Like other requirements in the contract, that is one of the things that we monitor.

**Senator WONG**—Yes, I understand that. I am asking whether, over and above the ongoing monitoring, there is currently closer consideration or closer examination by the department of the non-delivery of services, specifically Jobsearch training claims.

**Ms Golightly**—I am not aware of any current investigations. My colleagues can check.

**Senator WONG**—I deliberately tried not to use the term ‘investigation’.

**Ms Golightly**—I am using it in its broadest sense.

**Senator WONG**—I did not think we were allowed to do that.

**Ms Golightly**—It will always be something that, as with the other services that are required to be delivered under the contract, our contract managers look at on an ongoing basis. There may well be questions and discussion about that issue ongoing.

**Senator WONG**—Does the department have any concerns about the delivery of services particularly in relation to Jobsearch training claims?

**Ms Golightly**—I am not aware of any particular concerns at the moment.

**Senator WONG**—What about the use of the job seeker account? Is the department currently examining the use of the job seeker account over and above the normal day-to-day or month-to-month contract monitoring?

**Ms Golightly**—We might have some current investigations into that matter. I can check. Again, it would also be a normal part of any discussions our contract managers have with their providers.

**Ms Caldwell**—They are matters arising from our regular ongoing monitoring.

**Senator WONG**—Yes, I understand that. I am asking—if this is a particular issue, have concerns been raised?

**Ms Caldwell**—Not a particular issue. We also do periodic program assurance work, which may cover any of a range of issues. Any of the matters that you have mentioned would be picked up periodically in our program assurance job seeker surveys. One time we might look at Jobsearch training, another time we may look at another aspect.

**Senator WONG**—I am using the term ‘investigation’ in the broad sense. Are you saying there is no current investigation of job search training claims?

**Ms Golightly**—I am being very careful to make sure I use the terminology correctly.

**Senator WONG**—You used it broadly previously.

**Ms Golightly**—I am just making sure we are on the same wavelength here. In terms of investigations, if you like, or examinations under the contract management side of things, there may well be a current investigation or examination specifically—

**Senator WONG**—I am not really interested in hypotheticals. ‘May well be’ is a hypothetical.

**Ms Golightly**—Sorry, I cannot categorically say, because I have got staff checking at the moment. All I am drawing the distinction between is discussions that my contract managers out there—and there are quite a few hundred of them—might be having with their 107 providers. I am just drawing a distinction between that and something that we might be examining in more detail.

**Senator WONG**—Yes, I am interested in the ‘examining in more detail’. What I am interested in is, has an issue been raised about Jobsearch training claims that the department wants to take a closer look at?

**Ms Golightly**—We are just checking that at the moment.

**Senator WONG**—What about the use of the job seeker account?

**Ms Golightly**—The same.

**Senator WONG**—And the validity of job placement claims?

**Ms Golightly**—I can check that also. I am not aware of a particular issue. This might take a few seconds.

**Senator WONG**—I will move on. Ms Golightly, did you attend a meeting of Job Network CEOs on 2 February in Melbourne?

**Ms Golightly**—I think it was 2 February, if that was the Thursday of that week.

**Senator WONG**—Did you make a statement at that meeting that DEWR was investigating four areas of concern across the Job Network, in the areas, firstly, of services not being delivered, specifically job training claims; secondly, offering higher services than the job seeker warranted, which is the JSCI issue; thirdly, the use of the job seeker account; and, fourthly, the validity of job placement claims?

**Ms Golightly**—My recollection of my presentation at the CEO forum was that I was asked a question going to what sorts of things the department was interested in monitoring. My

answer went to basically anything that was a contractual requirement. Then I went on, I believe, to say more or less the things that you have just said there as being the sorts of things that the department would always be interested in making sure were being delivered correctly, in accordance with the contract. It was a general statement going to the monitoring that we do rather than specific questions.

**Senator WONG**—Is it the case that there are some 27 agencies being investigated in relation to those four areas—‘investigated’ in the broader sense—by the department?

**Ms Golightly**—Not to my knowledge.

**Senator WONG**—The long-term job outcome is defined as what?

**Ms Caldwell**—For the purposes of payment of an outcome fee, it would be 13 weeks or 26 weeks.

**Senator WONG**—That is 13 weeks employment, including employment on a wage subsidy? Is that defined as a long-term job outcome.

**Ms Caldwell**—It is counted as a long-term job outcome, yes.

**Senator WONG**—On the AJS website can you tell me how long ‘temporary work’ is defined to be? I would not go away, Ms Caldwell; this is a minor diversion.

**Mr Parsons**—There is no rigorous definition for temporary work on the AJS website.

**Senator WONG**—You do not define temporary work for the lodgment of vacancies on the AJS as work of less than six months duration?

**Mr Parsons**—No. There is a square for the advertiser to indicate whether it is a temporary job or otherwise.

**Senator WONG**—Is there any explanation to the advertiser when they mark the square as to what a temporary job would be determined to be?

**Mr Parsons**—Not that I am aware of, no.

**Senator WONG**—Are you saying that it is not six months?

**Mr Parsons**—Not that I am aware of, no.

**Senator WONG**—Ms Golightly, do you have advice yet?

**Ms Golightly**—No.

**Senator WONG**—Mr Parsons, I do not think I will need to trouble you again, I hope.

**Mr Parsons**—Thank you.

**Senator WONG**—But at least you got one question, so it is not entirely in vain your sitting here all day.

**Senator MARSHALL**—While there is a slight pause, Mr Boxall, when we were talking about subsidies in excess of 100 per cent, you indicated to the committee that you became aware of that through contract monitoring and other avenues. Can you tell me what the other avenues were?

**Ms Caldwell**—We are aware of the use of the job seeker account for a range of employment incentives and other uses. We also hear feedback from Job Network members about their successful best practice strategies as well as feedback from job seekers and employers, in fact any user of the service.

**Senator MARSHALL**—So they were the other avenues?

**Ms Caldwell**—Yes.

**Mr Manthorpe**—I have some information to go to the question you were asking Ms Golightly a few minutes ago. We are aware of one intensive support Jobsearch training investigation that is occurring at present. By ‘investigation’, this is the contract management type of investigation rather than any other kind of investigation that we might have been talking about today. There are 10 matters that we are looking at in respect of the Jobseeker account and one matter that we are looking at in respect of job placement claims, to the best of my knowledge.

**Senator WONG**—How many in relation to the JSCI issue, apart from the third ones? I do not want to know about the less than five.

**Mr Manthorpe**—This morning I indicated that there were a small number other than the small number less than five, and that is as far as I think I can go on that.

**Senator WONG**—Because of what? I am just a bit confused. I appreciate you have given me figures, but remind me of what the reason is for not giving me the other ones. These are not referred yet for investigation? Is it because legal proceedings are only envisaged in relation to this set? I am trying to be helpful here. I am trying to discern—

**Ms Golightly**—I am trying to formulate an answer for you in a way that is not endangering us or you. I think the evidence before lunch went to the fact that any of that information in relation to the JSCI matter may well be forming part of future legal action.

**Senator WONG**—Any?

**Ms Golightly**—There is a small number. I think we gave evidence that people might be able to deduce things that should not be deduced.

**Senator WONG**—Finally on this point, do you currently post the April 2005 change on the wage subsidy issue? When you are paying the outcome payments, do you match the data in terms of looking at whether the outcome has been contributed to by a wage subsidy?

**Ms Golightly**—Others might be able to add more detail, but my understanding is that is exactly the sort of thing that would be taken into account when we are doing our various evaluations of the various parts of Job Network and what is most successful, et cetera.

**Senator WONG**—So you do look at when there is an outcome payment at 13 weeks, for example? You would collect data as to the proportion of wage subsidy that was being paid at that time?

**Ms Golightly**—We certainly collect data on whether there was a wage subsidy paid. Whether we would be collecting data on the proportion—

**Ms Caldwell**—We would not routinely collect the proportion relative to wage. We would do so for the purposes of evaluation on a selective basis. That would not be tied in with the physical payment of the invoice for the outcome.

**Senator WONG**—Does your data set enable you to attain that information? For the 13-week outcomes, for example, how many have a wage subsidy and how many of them have a wage subsidy of 100 per cent?

**Ms Caldwell**—As we testified earlier, up until April of 2005—

**Senator WONG**—I am sorry, I am only asking about post April 2005.

**Ms Caldwell**—We would routinely pick that up by looking at approvals granted by account managers. We would have need to do that for evaluation purposes rather than invoice the payment.

**Senator WONG**—Can you take on notice this question: how many interim outcomes have been paid where there is a wage subsidy being paid? How many of those involve 100 per cent wage subsidy?

**Ms Caldwell**—We will take that on notice, yes.

**Senator WONG**—Can I ask one thing—the quarterly reports on labour market assistance outcomes have not been updated since March of last year, I think, on the website. This is probably not Ms Golightly's area.

**Mr Carters**—The reports need to be cleared by the minister. The minister makes the call on release dates.

**Senator WONG**—Are you suggesting that we have not had any clearance by the minister since March 2005?

**Mr Carters**—The last report that was released was March 2005, yes, by the minister.

**Senator WONG**—Would you explain to the committee why there has been a decision to withhold this information?

**Mr Carters**—It is the minister's decision, not ours.

**Senator WONG**—Those reports refer to post program monitoring, do they not?

**Mr Carters**—Yes, they do.

**Senator WONG**—When do you envisage the next report will be published or has there been a decision within government that they will no longer be published?

**Mr Carters**—That is with the minister.

**Senator WONG**—Sorry?

**Mr Carters**—It is up to the minister to decide that.

**Senator WONG**—They are quarterly, are they not? March 2005. When was the June 2005 provided to the then minister?

**Mr Carters**—We provide it to the minister as soon as practical in terms of having provided the relevant information in a format that is appropriate, and that is basically as much as I can say.

**Senator WONG**—There has been no release of the June 2005, September 2005, December 2005 reports?

**Mr Carters**—There has been no release of reports since the March 2005 report.

**Senator WONG**—I have a number of questions, but I will probably put them on notice in relation to the CWCA.

**Dr Boxall**—CWCA?

**Senator WONG**—Do not say it is a matter for it, because it has put in a question on notice answer that says it is a matter for you in relation to matters of policy.

**Dr Boxall**—Senator Wong, you are going to put those on notice?

**Senator WONG**—I would like to know who I am supposed to ask. I asked DHS, because I understood this is the only bit it kept or got.

**Dr Boxall**—That is correct.

**Senator WONG**—Yes, you did well, Dr Boxall, over that. It then came back to us in answers to questions on notice that this is a policy issue—this is in relation to the QWCA—and therefore it should be referred to DEWR. Why do we not put them on notice. Perhaps if the secretariat could assist or perhaps your department could find its answer to just confirm that that is what they said. I just want to know who I am supposed to be asking these questions to.

**Dr Boxall**—If you would like to give us an idea, just read out one of the questions, and then we can let you know what is likely to be our reaction when we receive them on notice.

**Senator WONG**—Why don't I put them to you in writing, because I think Senator Siewert has been very patient and has been wanting to ask some questions for some hours. Thank you very much.

Can I say one last thing? I have received advice from the Clerk. I have asked that it be tabled and I would ask that the minister and the department be provided with a copy of it. Dr Boxall and Minister, you will see the advice the Clerk gives: 'In the absence of a clear explanation of how that statement, as a matter of pure fact, could cause the apprehended difficulty, it is simply not possible to assess the validity of the claim of the department.' I would ask that you consider that.

**Senator Abetz**—We have got it. I have just perused it. Whilst somebody might have difficulty to see how the answer could possibly cause apprehended difficulty in legal proceedings, with respect, I will not make any comment about that. Suffice it to say—

**Senator WONG**—It is not good when you make comments, Minister: you usually get yourself into trouble.

**Senator Abetz**—that the committee, in fact, determined this matter and they in fact did see the difficulty and as a result voted accordingly.

**CHAIR**—Senator Siewert.

**Senator SIEWERT**—I am interested in following up the issue that I have raised earlier, that is, the family carers as opposed to foster carers. During the discussions that were held on

welfare-to-work, I did raise the issue of family carers and the impact of the legislation as it stood on family carers and noted the exemptions that had been made for foster carers. My understanding is that the department felt that there would be not many children involved in the family care situation. To clarify, that is children who are in family care-kinship care as opposed to formal foster care. I was given to understand that there were not many children involved. Subsequent to that, there has been a report released that indicates there are a large number of children involved. Forty per cent at least of the children involved in child protection orders and involved in out-of-home care are in fact in kinship care or family care. I would like to know: did the department give any consideration at all to family carers and children in out-of-home care in family care situations? Did it do any modelling on the numbers? Does it have access to any figures? If so, what figures did it use?

**Mr Carters**—The decision to provide the exemption for foster carers was made by the government. The issue of family carers was not one on which in that context we were called upon to look at the numbers. I will say, however, in terms of the government's decision about foster carers, that the definition is 'registered and active carers'. If there are family carers who do become registered and active foster carers in terms of the negotiations we are having with the states and territories, they would be covered.

**Senator SIEWERT**—You say they are registered as active?

**Mr Carters**—Registered and active on the state government register or the appropriate register.

**Senator SIEWERT**—I think we went through this before and we acknowledged that in fact there are a lot of family carers and kinship carers who are not required to be registered under their state processes.

**Mr Carters**—People in those circumstances, their caring responsibilities are taken into account in terms of their eligibility for exemptions more generally. There is not a separate category there which caters for them in the way in which it does for foster carers.

**Senator SIEWERT**—So if people are family carers or kinship carers, are you saying that, if they are on the register in each of their states, they would then come under the category of foster carers and be eligible for exemption?

**Mr Carters**—If they are registered and active carers and deemed by the relevant state agencies to be the foster carer equivalent, then they could be covered.

**Senator SIEWERT**—Even if they are not called 'foster carers'? Sorry, I am being pedantic—but this is really important. Definitions are really important.

**Mr Sandison**—The focus will be on how the states define their foster carers—any active and registered foster carers. If they are on a separate register that is not identified as being the foster carer register within the state that meets the requirements of the legislation, they do not have access to that particular exemption but, as Mr Carters said, they can access, if there is a need for them in crisis or particular circumstances, the other variables and support mechanisms that come through the Social Security Act.



**Senator SIEWERT**—The point there, though, is that then they have to go through—I am just going back through all the discussions we had at the time—the every-16-weeks process, whereas for foster carers it is a different situation.

**Mr Sandison**—Yes, the foster carers can get a different exemption that I suppose you could argue is easier for them. But it still has to be renewable, because it is ongoing. For the other ones it is a 16-week exemption that they will have to apply for again, yes.

**Senator SIEWERT**—Have you had discussions with the states about these classifications and whether family carers and kinship carers are actually registered as foster carers and will meet your exemptions? Have discussions been held?

**Mr Sandison**—Staff from my group have had discussions with all the states and territories. We are still working through. We are currently drafting and writing the guide which will be one of the critical parts of advice to Centrelink offices and employment service providers. The details of whether or not we have got down to the split of the particular care groups that you are talking about I do not have on me. I think we did table the letter from the New South Wales department last time, after checking with them, and that was part of the evidence from either the last Senate estimates hearing or the Senate inquiry.

**Senator SIEWERT**—It is all the states that I am concerned about, and dealing with that.

**Mr Sandison**—I can take on notice whether there has been specific reference in discussions or any paperwork that we have had, as we did with the New South Wales.

**Senator SIEWERT**—Okay.

**Mr Sandison**—I will answer that on notice.

**Senator SIEWERT**—In states where kinship carers and family carers are not classed under that register, what other actions can the department take—I am aware of the requirements; it would be a lengthy requirement to get exemptions specifically for family carers and kinship carers—that will ensure they get the same support that foster carers get?

**Mr Carters**—The negotiations with the states are still ongoing. I ought not to predetermine, to presume, an answer which is not necessarily going to be the right answer. There is some prospect there in terms of where we get to with the states and the definitions and so on. Having said that, the answer is really the same we gave before. If they are not covered under the foster carer provisions, then they would need to be considered on their merits individually in terms of individual exemptions.

**Senator SIEWERT**—You can guarantee that I will be coming back to the next estimates hearing and pursuing this issue once I get the answers back from this round.

**Mr Carters**—We will definitely discuss that particular issue with each of the states and territories.

**Senator SIEWERT**—Thank you.

**CHAIR**—You are finished with that?

**Senator SIEWERT**—Yes.

**CHAIR**—In the absence of other questions, I can only assume we have finished outcome 1 and outcome 3. Thank you very much to those officers.

[4.58 pm]

### **Equal Opportunity for Women in the Workplace Agency**

**CHAIR**—We will now move on to the Equal Opportunity for Women in the Workplace Agency. I welcome Ms Anna McPhee, from the Equal Opportunity for Women in the Workplace Agency. I understand that Senator McEwen has some questions.

**Senator McEWEN**—Thank you. When you were at Senate estimates in May last year you said that the role of the EOWA is not to advise the government on workplace relations. Can you explain what is the EOWA's role within, and in relationship with, DEWR and other government departments, including the Department of the Prime Minister and Cabinet? If it is not to advise, what is your role?

**Ms McPhee**—The Equal Opportunity for Women in the Workplace Agency is established under the Equal Opportunity for Women in the Workplace Act 1999, which replaced the Affirmative Action Act 1986. That had been established to report on or regulate businesses with 100 or more employees on their workplace practices and programs across seven employment matters. The agency is there to regulate business and educate business on equal opportunity for women in the workplace.

**Senator McEWEN**—You do not have any regular interaction with the department?

**Ms McPhee**—The agency is a portfolio agency of the department. We meet regularly in relation to what we are doing and feed back on what is happening in businesses. The research and surveys that we do feed back into the department and are shared with the Office for Women in the Family and Community Services Department.

**Senator McEWEN**—Have you had any briefings or interactions with the department since the introduction of the Workplace Relations Act—WorkChoices?

**Ms McPhee**—On the changes? No.

**Senator McEWEN**—Last time you appeared at estimates, a question was asked about whether you know how many Australian workplace agreements provide paid maternity leave. Have you had any further information on that matter?

**Ms McPhee**—Not on AWAs, but certainly on the organisations that report to EOWA. In 2005, 46 per cent of organisations with 100 or more employees provided paid maternity leave. What we do not know is the nature of their work agreements—whether they are common law, certified agreements, awards or AWAs. It is a mixture of all.

**Senator McEWEN**—In the survey that complying organisations are required to complete, it does not ask what kind of industrial instrument applies at that workplace?

**Ms McPhee**—The organisations are not required to complete the survey. It is a voluntary survey in our phone feedback. No, we do not ask that question—to ensure that we are not taking up too much of the businesses' time.

**Senator McEWEN**—Have you ever given any thought to asking what kind of industrial instrument applies at a particular workplace?

**Ms McPhee**—No, but I can look at that in the future.

**Senator McEWEN**—Have you received any instructions or advice from the government as to whether you should or should not ask that question of employers?

**Ms McPhee**—No. The survey is developed by the agency and not under instruction by the government.

**Senator McEWEN**—The survey is developed by the agency, so who has the final call on what actually goes into the survey? Is that prescribed under the act?

**Ms McPhee**—I do, the director of the agency. The survey is not part of requirement under the act. It forms part of our role in relation to education and understanding or measuring, I suppose, the impact of the agency and other information in the debate—to see change in the workplace and to ensure that equal opportunity and other work and family provisions are being provided by business.

**Senator McEWEN**—Given that the government has told everybody that under its WorkChoices legislation primacy should be given to balancing work and family life, I am surprised that there has not been any consideration of asking in the survey what kind of industrial instrument applies. We have heard that AWAs are going to provide that kind of flexibility. Would you care to comment on whether you believe the details within AWAs about, for example, paid maternity leave should be investigated by your department?

**Ms McPhee**—I think there is an increase of organisations that are providing paid maternity leave—by anecdotal evidence it is a significant increase, particularly since 2001. It is policy being implemented at the workplace level, but I cannot give you a quantitative figure on that.

**Senator McEWEN**—Are there any details in the statistics that you collect about whether casual employees receive paid maternity leave?

**Ms McPhee**—Yes, we do have that figure. I am sorry, I do not have it on hand with me right now, but I can provide that to you on notice. We ask the question, ‘Do all your employees receive paid maternity leave? Do casual employees?’ In some businesses—certainly not all that respond to the survey—a percentage of casual employees do have access to paid maternity leave?

**Senator McEWEN**—Is it a lot? Five per cent; 95 per cent?

**Ms McPhee**—I really cannot recall the figure. I will provide that on notice. Definitely, businesses are providing paid maternity leave to casual employees.

**Senator McEWEN**—I just want to clarify that, since the introduction of the WorkChoices legislation and its passage through parliament, you have not received any directive from government to collect specific types of information.

**Ms McPhee**—No.

**Senator McEWEN**—Are you aware of the Australian Industrial Relations Commission test case that was handed down last year with regard to work and family life—the ‘work and family test case’ in August 2005?

**Ms McPhee**—Yes.

**Senator McEWEN**—Has the EOWA been recommending to businesses that they introduce those new provisions?

**Ms McPhee**—We have not made the provisions available on our website as information on what organisations could implement. Certainly, what we share with businesses is best practice in organisations. Some organisations do provide that and we share that with other businesses in relation to what is going on in businesses across the country.

**Senator McEWEN**—But some businesses that are covered by the relevant awards should be required to observe those test case provisions.

**Ms McPhee**—Which provisions?

**Senator McEWEN**—The August 2005 decision, that has been gradually—

**Ms McPhee**—If you could remind me exactly—is that in relation to two years—

**Senator McEWEN**—Up to eight weeks simultaneous parental leave, up to an additional 12 months unpaid parental leave, the return from parental leave on a part-time basis until the child is of school age.

**Ms McPhee**—We are certainly seeing an increase of businesses that are providing return to work part time. This is a provision that businesses are recognising is something that ensures that they can attract and retain the best female talent in their workplace. We share that information with the businesses that we speak with to give them guidance on how they can attract and retain women in the workplace and provide them with opportunity.

**Senator McEWEN**—Would the EOWA be supportive of the government's including the provisions of that test case in any future workplace relations legislation?

**Ms McPhee**—I have not looked at that or considered it at this point, so I am not in a position to answer that question.

**Senator McEWEN**—Is the agency intending to look at that?

**Ms McPhee**—The agency is not a policy agency to government, as I explained earlier. It is strictly not a policy adviser to government.

**Senator McEWEN**—But presumably, if this test case has gone through the industrial commission and awards are being varied to include it, given that awards may change over time or may not, would it not be responsible to advise the government to consider that as part of any future legislation or regulation?

**Ms McPhee**—We have not done any research in relation to the impact on those things. If they are being considered by awards, then they are being undertaken at the award level and would be implemented in businesses.

**Senator McEWEN**—The last time you were before the Senate committee you said that what businesses are finding in the provision of paid maternity leave is that they are experiencing a high rate of return and therefore a greater rate of retention of their female work force. Is there any data that your agency collects to support the assertion that you made?

**Ms McPhee**—Yes. Again, I can provide that information on notice. In comparison of organisations which provide paid maternity leave and those that do not, those that provide paid maternity leave on average experience a higher rate of return from maternity leave.

**Senator McEWEN**—What actual question do you ask the employers in relation to that?

**Ms McPhee**—Something to the effect, ‘What is your rate of return?’ I can give you the question.

**Senator McEWEN**—You can? That would be good. Also, earlier this year in a media release you said that the current government child-care policy of providing FBT exemptions to onsite child care only benefited a small part of the business community and therefore a limited number of families. You said that you support the calls for an expansion of the exemptions to off site care.

**Ms McPhee**—Yes.

**Senator McEWEN**—Would you care to elaborate on what led you to make those statements?

**Ms McPhee**—The EOWA surveyed businesses on child-care assistance in their organisations. Only three per cent of the organisations which report to EOWA provide onsite child care, in which case they are the only organisations receiving the benefit. So clearly, in my view, expanding it would increase the benefit across the board.

**Senator McEWEN**—Since you made that statement, has the minister’s department or any representative of government spoken to you about why you made that statement, given that this was an issue of some interest?

**Ms McPhee**—No.

**Senator McEWEN**—I want to go back to something you said earlier, that is, that organisations are not required to comply with the report.

**Ms McPhee**—I beg your pardon?

**Senator McEWEN**—Earlier in your evidence this evening, in response to a comment that I made about complying organisations, you said that organisations are not required to answer the survey.

**Ms McPhee**—They are not required to answer the survey. Organisations are required under the act to report to the agency.

**Senator McEWEN**—To report, yes.

**Ms McPhee**—The survey is in addition to their legal requirement.

**Senator McEWEN**—So organisations are required to comply with the reporting requirements of the act.

**Ms McPhee**—Yes.

**Senator McEWEN**—I note, in the foreword to the report of the survey that was released by your department in August 2005, that 69 per cent of organisations completed the survey. Is that right?

**Ms McPhee**—Yes. That is what it says, yes.

**Senator McEWEN**—Was there any follow-up of the other organisations which did not respond?

**Ms McPhee**—That is approximately 2,000 organisations, which is a fair sample in a survey. There has not been follow-up, because the sample size is statistically relevant.

**Senator McEWEN**—I agree; it is a reasonable response. Do all organisations which are required to comply with the reporting requirements of the act comply?

**Ms McPhee**—Last year, reported in the 2004 annual report, 14 organisations which were required to report did not comply. Since then, I think, two have become compliant. So approximately 12 organisations are not compliant at this time.

**Senator McEWEN**—What happens to them if they do not comply?

**Ms McPhee**—The organisations are named in parliament and are unable to access government procurement, both federal and state.

**Senator McEWEN**—So that list will be provided to the parliament shortly, I would imagine.

**Ms McPhee**—No, that was tabled in parliament in November, so you would already have received a copy of the annual report. It is published in the annual report.

**Senator McEWEN**—I have no more questions. Thank you.

**CHAIR**—Thank you, Ms McPhee.

[5.15 pm]

### **Comcare**

**CHAIR**—We will now move on to Comcare, Safety, Rehabilitation and Compensation Commission and Seafarers Safety, Rehabilitation and Compensation Authority. I understand that Senator Marshall has some questions, when the officers are here.

**Senator MARSHALL**—Can you give me an overview of where you are up to with the review of the Seacare scheme?

**Ms Bennett**—We are not reviewing the Seacare scheme. The Department of Employment and Workplace Relations is reviewing the scheme.

**Senator MARSHALL**—Do you know where they are up to?

**Ms Bennett**—A preliminary review is being conducted, and there has been some consultation with the states. I understand that they are taking the result of those consultations into account at the moment.

**Senator MARSHALL**—That is all you can tell me about it?

**Ms Bennett**—Yes.

**Senator MARSHALL**—Do you know when the government is expected to respond the Ernst & Young report on the review?

**Ms Bennett**—I have no more information than what I have just said. They are taking into account the information that they have got and considering the next steps.

**Senator MARSHALL**—Given the decision of the Australian Transport Council to support the move to change the jurisdictional responsibility for ship safety in Australia from a voyage-based to a tonnage-based method, is it proposed that the jurisdictional responsibility for occupational health and safety or workers compensation in the maritime industry would also be changed from a ship-voyage basis to a tonnage basis?

**Ms Bennett**—I understand that it is a subject of discussion between the Department of Transport and Regional Services and the Department of Employment and Workplace Relations, that they are having a look at how those things will sit together.

**Senator MARSHALL**—Why would you not be involved in that?

**Ms Bennett**—We administer what the legislation is and the Department of Employment and Workplace Relations manages the policy and the policy advice to the government. We contribute by providing input into how it practically works and they deal with that broader government framework.

**Senator MARSHALL**—Can you explain to me what your input would involve? Do you undertake industry consultation in respect of this?

**Ms Bennett**—Comcare provides secretariat support to the Seacare authority and we monitor the performance and report and assist in the preparation of their annual report, so we have a knowledge about what is happening and how the scheme as a workers compensation and safety arrangements are working. So we do the hands-on, on the ground practical stuff and the Department of Employment and Workplace Relations, as I said, does the policy setting.

**Senator MARSHALL**—Again I am not quite sure that you have answered my question. What I am looking for, and if it is not your department and whether you know if someone else is going to do it that is fine, but is there going to be an industry round of consultation in respect to the potential move?

**Ms Bennett**—You would have to ask the Department of Employment and Workplace Relations on what their next steps are.

**Senator MARSHALL**—So the limitation of your involvement is what you have described to us?

**Ms Bennett**—Yes.

**Senator MARSHALL**—So when you say you are responsible for the implementation of the scheme—

**Ms Bennett**—Administration.

**Senator MARSHALL**—administration of the scheme, there is no further involvement in determining whether what is being proposed is appropriate for administration purposes? I would have thought moving from the voyage based to the tonnage based directly impacts upon what you would be interested in; it is a major administrative shift.

**Ms Bennett**—Yes. There is information sharing and discussion of the issues and sharing of what we understand is happening in the industry, and I think the department takes our views into account as it does a range of other stakeholder views, and we have provided information on that. Certainly we have both the authority in ourselves and have passed on what the authority's view is, but as I said mainly it is sitting with DEWR at the moment. I think you could probably call accurately that there has been a commitment that further consultations will occur to the Seacare authority but we have not been advised what the next steps are at this stage.

**Senator MARSHALL**—Can you tell me when the authority expects that a bill to amend the Navigation Act of 1912 to give effect to the new jurisdictional responsibility for ship safety will be introduced into the parliament?

**Ms Bennett**—That piece of legislation sits with the Department of Transport and Regional Services and I am not aware of when they intend to introduce any amendments.

**Senator Abetz**—They have got a spill-over tomorrow.

**Ms Bennett**—They are lucky there.

**Senator MARSHALL**—I recall this happened to me last estimates, too.

**CHAIR**—We could always make placement tomorrow morning.

**Senator MARSHALL**—Are you going to be responsible for the administration of that bill?

**Ms Bennett**—We do not know yet until we see what final decisions are made and how it sits with the Australian Maritime Safety Authority. I could not give you an answer to that.

**Senator MARSHALL**—In terms of any opportunity for industry comment on an exposure bill, that is not something that your department would be involved in?

**Ms Bennett**—No.

**Senator MARSHALL**—Thank you. I think you might be able to answer this one. Are there any applications under Section 100 of the Safety, Rehabilitation and Compensation Act of 1988 seeking a declaration that the applicant corporation is eligible to be granted a self insurance licence under the SRC Act before the department?

**Ms Bennett**—This goes to the question about the different roles between the Department of Employment and Workplace Relations and the SRCC. The Department of Employment and Workplace Relations receives any applications for declaration, assesses those and makes the recommendations to the minister. Once the declaration has been made that corporation can then choose to apply for a licence to the commission. So we are aware of the licence process but we do not manage the declaration process.

**Senator MARSHALL**—Can you tell me whether there are any applicants before you for a licence.

**Ms Bennett**—The minister recently declared three entities and we are awaiting to see whether they will eventuate into a licence application for the commission.

**Senator MARSHALL**—So the entities are—



**Ms Bennett**—Sorry, the commission now has the applications. That has just been confirmed with me.

**Senator MARSHALL**—Can you tell me who they are?

**Ms Bennett**—They are Linfox Australia Pty Ltd, Linfox Armourguard Pty Ltd and K & S Freighters Pty Ltd.

**Senator MARSHALL**—When is a decision expected on those applications?

**Ms Bennett**—We were hoping to be in a position for them to be considered at the next meeting of the commission, which is in March.

**Senator MARSHALL**—I was just wondering about the process itself. So it is a matter of the commission making a decision and then what happens, or how do they actually come to make that decision?

**Ms Bennett**—The process is that we receive a licence application. On behalf of the commission we do an evaluation which focuses on their prudential and financial conditions. We look at whether there is a staff agreement. They have to provide evidence on staff agreement and their ability to meet the commission's standards in relation to things like claims management, return to work, OH & S, and then that assessment is provided to the commission and then they make a decision taking into account our assessment of that corporation against that criteria that I have just broadly outlined.

**Senator MARSHALL**—So you make the assessment?

**Ms Bennett**—We make assessments against the criteria and provide it for the commission to consider.

**Senator MARSHALL**—How is that done?

**Ms Bennett**—We have staff gather information against those main themes and we prepare a report for the commission.

**Senator MARSHALL**—I am just interested in how it is tested, because people who want to apply for the ability to be a self insurer will say that they meet the criteria; I am just interested in how thorough the validity of those claims are and how thoroughly they are tested?

**Ms Bennett**—For example on the financial and prudential requirements, we receive audited financial statements and that goes to areas about the financial viability of the company, the number of staff that they have. We would get statements and they would be confirmed with other materials about their capacity to manage their claims or their OH & S records. In making an assessment about, for example, what sort of prudential requirements we require, we would be looking at their past injury rates and the cost of those injuries. So from the material that is provided we ask questions; we look at it to be confirmed in consultation with the corporations.

**Senator MARSHALL**—And then you provide a recommendation?

**Ms Bennett**—We provide a recommendation to the commission.

**Senator MARSHALL**—So the licence is granted on what terms? Is there a probation period and is there a review process undertaken then to ensure that they actually meet the criteria set out?

**Ms Bennett**—The commission sets conditions of the licence. At the moment the current practice has been for the commission to grant an initial licence for two years. The commission has within that condition for new licensees has a number of audit and monitoring requirements that are to date more strenuous for new licensees. It is a tiered approach, so that once they have got the experience and demonstrate that they are meeting the commission's requirements, they have the potential to move up to a less highly monitored regime, but if they are not meeting it they will stay in that bottom tier. The commission will then issue the licence, as I said, against particular conditions and terms of it to cover staff, what the order requirements are and whether they are going to manage their claims internally or externally. They will prescribe those sorts of issues in the terms of the licence.

**Senator MARSHALL**—Thank you. I just want to ask you about the COMCARE guide to the assessment of the degree of permanent impairment. Can you tell me what your estimated reduction in entitlements would be with the use of that new assessment?

**Ms Bennett**—Sorry, could you please repeat your question?

**Senator MARSHALL**—I am going to ask some questions about the COMCARE guide to the assessment of the degree of permanent impairment. It is a new guide. I am just wondering what your assessment of the reduction in entitlements against the current guide will be, as a result of using the new guide?

**Ms Bennett**—I think I would like to say in the beginning that the revision of the guide was not a cost saving measure, so that the question that you are going to, did we look at it about making savings, we did not. This was about using the most current medical information that is available to give doctors advice on how they could make an accurate assessment on an impairment, and therefore subsequent treatments or support that would be given to an individual would be based on the most accurate advice. We did not look at this as a savings measure. It was not introduced as a savings measure.

**Senator MARSHALL**—I understand that. I would like to talk about the accuracy. It is the accuracy against what test. There is a current test and there is a new test. So, just coming back to my question: have you done an assessment of the savings as a result of the new guide?

**Ms Bennett**—In broad terms we have worked out that there are some people who might not have received a permanent impairment payment that would now be eligible for that payment because of the new assessment arrangements, and there are some that have been receiving it for one injury that now would no longer receive it. Our view is that there would probably be some reduction, but it would pretty much be balanced out by those that would be receiving it first as those that are not receiving it. There would be a balance in that. On the actual dollars, from the advice I have received it was such a marginal amount. I just want to say it is very much a guesstimate.

**Senator WONG**—Do you do actuarial calculations? When I was a solicitor I dealt a bit with Comcare, but I certainly did a lot of workers compensation work, and the unfunded

liability or the funded liability was a big issue, so I assume you do actuarial calculations predicated on your projected cost of claim, including for permanent impairment?

**Ms Bennett**—Yes, of course we do. Part of that actuarial is looking at your past experience to make a decision about what your future costs will be. When you make a change to say it is possible this proportion would no longer be more in or out, you need to have a pattern of a change in the trend to make an accurate assessment. What I was trying to explain is that we did do a guesstimate. I can provide that. I have not got it with me at the moment, but it is no more than a best guess, because the guide does not come into effect until 1 March. We do not have data that would accurately support any suggestion that there were savings.

**Senator WONG**—You would not have gone through this process of changing the table, if that is what it is called—the assessment of the degree of permanent impairment—without actually having some costings of the financial impact. So I think what Senator Marshall is asking is: what is the difference between that and what was previously the cost?

**Ms Bennett**—We actually did go through this process on the basis of good medical advice. Comcare had been subject to considerable criticism in a number of tribunals over the outdated nature of the previous guide, which had been in operation for 1989 and therefore was lagging behind on new medical evidence, and so the question that you are asking is: did we change it on the basis of making some savings—

**Senator WONG**—No, I did not ask what the motivation was; I asked what the costings were.

**Ms Bennett**—I said that we will come back with that information. We will take it on notice.

**Senator MARSHALL**—So some work was done. You talk about guesstimates, but then you have said there is some work done. I do not know what a guesstimate actually is. Can you just be clearer with us about what work was done in terms of costings?

**Ms Bennett**—In responding to what we have identified as a potential difference in what will be paid out, we will provide the process to you on how we did that.

**Senator MARSHALL**—It has been put to me that Comcare has conceded that there will be at least a 36 per cent reduction in costs.

**Ms Bennett**—That is not true.

**Senator MARSHALL**—That is not true? You have not conceded that? Have you conceded anything?

**Ms Bennett**—No, we have not conceded that and, no, I have not heard that figure before.

**Senator WONG**—Was that a 36 per cent in reduction of entitlement?

**Senator MARSHALL**—Yes, a reduction in entitlement of 36 per cent.

**Ms Bennett**—The language of ‘entitlement’ is I suppose what I am struggling with. How the guide is used is to make an assessment of the level of injury. It is a payment that is made that recognises an injury level, rather than a view that you are entitled to receive that payment. As I said, we will provide to you what we think the difference in payments out—

**Senator MARSHALL**—That is worth exploring because, if you have done your calculations based on the fact that fewer people will have an entitlement to make a claim and therefore the costs are marginal, it is not really comparing the old guide with the new guide, is it? So will your calculations include those that will no longer be entitled or will have a lesser entitlement?

**Ms Bennett**—Our assessment would have been based on our understanding of that proportion of injuries that would be no longer in the new thresholds.

**Senator MARSHALL**—I have a comparison in front of me between the old guide and the new guide, and in every area that I can see there is a significant reduction in entitlements.

**Senator Abetz**—Prepared by whom? What is the basis of that document? That might be of assistance.

**Senator MARSHALL**—It is a document prepared for me.

**Senator Abetz**—You will not tell us who by?

**Ms Bennett**—I do not know what you are asking.

**Senator Abetz**—Do you want to pass it over so they can do an analysis of it?

**Senator MARSHALL**—We may do that. Have you done a comparison between the old guide and the new guide in terms of the entitlements?

**Ms Bennett**—I have been advised that the consultation and the process for developing the new impairment guide took some eight years and during that time there were a lot of questions asked, doing like and like, but, since a final decision was made on the final shape, we have not provided what you are describing, a line-by-line comparison. So, no, I do not have what you have.

**Senator MARSHALL**—I am not suggesting that you are trying to avoid answering the question, but you said, ‘since the final guide was put in place’. But, if it took eight years, I suspect you were pretty close to the final guide some way out from when it became the final guide. Has there been a comparison of what would have to be close to the final guide?

**Ms Bennett**—Certainly we understand the difference in the impact of the changes between the previous guide and this new guide. I will take that on notice and provide it to you.

**Senator MARSHALL**—Will that include an assessment of what the percentage reduction in entitlement is?

**Ms Bennett**—I will have to take that on notice.

**Senator MARSHALL**—Is this the same guide that applies to the military?

**Ms Bennett**—No, it is not.

**Senator MARSHALL**—What applies there?

**Ms Bennett**—The old guide.

**Senator MARSHALL**—Is there a process in train to change the old guide to the new guide in the military?

**Ms Bennett**—Not at this stage. I will just clarify. The new guide has two parts. The first part is the new guide and the second part is the old guide. It is the second part that applies to the military in respect of injuries prior to the commencement of the Military Rehabilitation and Compensation Act in 2004.

**Senator MARSHALL**—So the old guide is still in force with respect to the military, and that was the guide that was applied to the rest of Comcare's coverage? So the new guide applies to everybody except the military?

**Ms Bennett**—Prior to the establishment of MRCC, the Military Rehabilitation and Compensation Commission, which was established in 2004, which has something called a GARP, which you would have to ask the Department of Veterans Affairs about, those people that were injured—

**CHAIR**—Is that G-A-R-P?

**Senator Abetz**—It is an acronym. Defence is good at those.

**Ms Bennett**—So Defence personnel who had an injury that occurred before the establishment of the commission are covered by the old guide arrangements.

**Senator MARSHALL**—Which are part of the new guide?

**Ms Bennett**—It is a technical process. We can only have one guide, so if you have got two guides operating you make them one guide and you have a part 1 and a part 2.

*Senator Abetz interjecting—*

**Senator MARSHALL**—Minister, this is my opportunity to find out what is going on, not yours. You can do it elsewhere.

**Senator Abetz**—I am trying to learn as well.

**CHAIR**—Ms Bennett is enlightening us all, I think.

**Senator MARSHALL**—So the new guide comprises the old guide and the new table as well. So it would be fair to say that the new guide treats military personnel differently from other employees covered by Comcare. Is that right?

**Ms Bennett**—They retain the old arrangements, and the new arrangements only apply to non-military personnel.

**Senator MARSHALL**—So is the answer yes?

**Ms Bennett**—It is how you look at it, but yes.

**Senator MARSHALL**—So it does treat them differently, because there is a different table and a different impairment regime applies, does it not? How do the problems facing military personnel differ from those faced by Australia Post or Telecom workers, for instance?

**Ms Bennett**—The acceptance of the guide is a decision made by the government, and I do not have any comments to make on why two guides were adopted.

**Senator MARSHALL**—But injuries to particular parts of someone's body will be the same, whether they are in the military or elsewhere, but they will be treated differently. You are agreeing with that, are you not?

**Ms Bennett**—That you made that statement?

**Senator MARSHALL**—Is the statement true or not?

**Ms Bennett**—That there are two guides and two different regimes, for non-military personnel and military personnel, yes.

**Senator MARSHALL**—Which treat injuries differently in terms of the impairment scale?

**Ms Bennett**—Under these arrangements, yes.

**Senator MARSHALL**—How do you explain the requirement of those suffering from, say, cervical conditions to satisfy an 18 per cent permanent impairment and, in the case of the lumbar spine, a 13 per cent permanent impairment rather than the legislated 10 per cent?

**Mr Swails**—The new guide does not change the legislative provision regarding the requirement for a 10 per cent whole person permanent impairment to be established before a permanent impairment lump sum would be payable, but the various tables in the guide which were developed for us by medical specialists have various percentage ratings applying to particular circumstances of injuries as set out in those tables.

**Senator MARSHALL**—Do they require a 13 per cent impairment?

**Mr Swails**—In respect of the table that you are alluding to, the advice that we had from the medical specialists was that the condition that was described amounted to a 13 per cent or 18 per cent, as the case may be, whole person impairment. That is why it was described in that fashion.

**Senator MARSHALL**—So, if you are suffering from cervical cancer, you automatically get an 18 per cent permanent impairment classification?

**Mr Swails**—I do not have the guide in front of me, but those who apply the guide would look at those particular tables. Medical specialists would do an assessment of the injured employee against those tables.

**Senator MARSHALL**—We may have to come back to that at a future time. Is there any change to the ability of employees covered by Comcare to continue with the option of lodging a third-party claim?

**Mr Swails**—I do not believe that the guide introduces any change in that regard.

**Senator MARSHALL**—Is the new guide going to apply to all injuries suffered after 1 March 2006?

**Mr Swails**—No. It is going to apply to all claims for permanent impairment received on or after that date.

**Senator MARSHALL**—Will that impact upon third-party claims?

**Mr Swails**—I am not quite sure about the point that you are getting to in relation to third-party claims. Basically the process in relation to the guide would be that an employee would have put in a claim for compensation and at the same time, or some considerable time later, they may put in a claim for permanent impairment in respect of the same injury, on the basis that the injury is not going to improve and has reached a certain permanent status.

**Senator MARSHALL**—Can you just outline for me the areas where the application of the new guide will change people's existing entitlements?

**Mr Swails**—I do not know that it changes people's entitlements. The point I was making is that the entitlement to a permanent impairment lump sum payment, where an employee meets the required threshold of a 10 per cent whole person impairment, is something that is legislated under the act and is not affected by the guide. What the guide is about is assessing the employee to see whether their permanent impairment meets that 10 per cent whole person threshold.

**Senator MARSHALL**—You are going to get back to us with estimated savings in dollar terms as well. If there are savings, what potentially happens to them? Are any savings transferred into prevention programs, or will they simply go into a bottom line saving in Comcare? I am just interested to know where any potential savings might be used.

**Ms Bennett**—We work on a premium model so that the cost of injuries is then collected through the premiums paid. If there are lesser injuries or lower costs of injuries, it reduces the premiums.

**Senator MARSHALL**—So it is redistributed back to the payer of the premium?

**Ms Bennett**—Over time it will be reflected in the premium model.

**Senator MARSHALL**—That would be regardless of an improvement in WorkCover claims or occupational health and safety in those agencies? The point I am making is that, if the new guidelines reduce the overall cost—which is what I am anticipating happening, but you will verify that with some of the work you have done in time—people will get reduced premiums regardless of their occupational health and safety record improving in their own workplaces. Is that right?

**Ms Bennett**—I think you are drawing the wrong connection there. I think I can see where you are heading, but the premium model is based on the costs of injuries and the number of injuries. If an injury costs less—same as if doctors' bills go down—the premium will be less.

**Mr Swails**—Perhaps I could add to that. We do not have a single premium applying across the whole of the Commonwealth sector, rather we have premiums that are determined on an agency-by-agency basis, so the premiums do have regard to the claims experience of the particular agencies.

**Senator MARSHALL**—That is one way to reduce your premiums. I accept that, but I also say that, if any cost savings go back into reduced premiums, you can end up with reduced premiums for not actually making any occupational health and safety improvements.

**Ms Bennett**—We have a separate regulatory fee for OH&S, which is separated from the premium cost. The premium is identified separately, but, as Mr Swails said, it identifies a Commonwealth agency's cost and injury pattern, and then there is a separate contribution made for OH&S regulation.

**Senator MARSHALL**—So is there a penalty mechanism in there apart from higher premiums, or is it simply that the penalty process is by having a higher premium if you have got a worse accident record?

**Ms Bennett**—Yes. There are obviously things that we do rather than penalties, but we work with agencies and we can take action under OH&S for breaches of the legislation, but the financial penalty is based on the agency's performance.

**Senator MARSHALL**—Thank you. I do not have any further questions.

**CHAIR**—Thank you very much for your attendance.

[5.53 pm]

### **Australian Building and Construction Commission**

**CHAIR**—I welcome the officers of the Australian Building and Construction Commission and I ask Senator Siewert to proceed with questions.

**Senator SIEWERT**—I have a lot of questions, some of which I am happy to put on notice because they are quite detailed, but there are some that I would like to address now. Can you tell me what powers the ABCC inspectors have in relation to questioning workers and their families and under what section of the act?

**Mr Lloyd**—The powers of inspectors are set out under the act. In relation to the questioning of families, there is no specific power to question the person's family as such.

**Senator SIEWERT**—Have summonses been delivered to members of workers' families?

**Mr Lloyd**—The summonses that can be issued sometimes may be issued at a person's home, but that is sometimes by the choice of the person who is the subject of the summons or the document which we are serving, because it may be inappropriate to serve that at the place of work.

**Senator SIEWERT**—Where they have been served at home, has there been contact with the worker to find out where they would prefer to be served?

**Mr Lloyd**—Normally we do that, yes, and we would attempt to serve it where they wish. Some, of course, might authorise a legal practitioner or their legal representative to receive it and, of course, we would serve it on their legal practitioner.

**Senator SIEWERT**—Can you assure me that, every time a summons has been served, a worker has been contacted to be asked where that worker would prefer it to be served?

**Mr Hadgkiss**—I know of no instances where workers have not been contacted. Invariably investigators will make contact with the worker. Some workers will simply turn their phones off and leave the investigator with no choice but to go to their place of work or to their home.

**Senator SIEWERT**—Are you aware of the instance that has been reported where there was an attempt to serve it on a child?

**Mr Hadgkiss**—Only from your address to the Senate.

**Senator SIEWERT**—What penalties would be imposed on an inspector who has been found to have misrepresented issues to workers or their families?

**Mr Lloyd**—A person who feels that there has been misrepresentation is entitled to make a complaint to us, which would be thoroughly investigated, and then whatever penalty that would ensue would be dependent on what the investigation turned up.



**Senator SIEWERT**—Can you tell me under what specific section that would be dealt with under the act?

**Mr Lloyd**—A complaint?

**Senator SIEWERT**—Yes.

**Mr Lloyd**—We are like any public sector organisation. We are subject to public accountability, and the Public Service Act applies to the employees that we engage. That is where the right to make a complaint would arise from.

**Senator SIEWERT**—So they would be dealt with as public servants under that?

**Mr Lloyd**—A complaint could be made; it could be made to me. If there was a complaint, we would conduct an investigation; it may be done by an independent person. It is possible that the Ombudsman may be involved. There are a number of avenues—it is like any public sector organisation—for complaints to be made.

**Senator SIEWERT**—Are all the people that you use for contacting workers or their families actually specifically employed by the ABCC, or are there independent people?

**Mr Hadgkiss**—As in process servers?

**Senator SIEWERT**—Yes.

**Mr Hadgkiss**—To my knowledge, where the compulsory powers have been used it has been a person-to-person contact, but we are bound by the Acts Interpretation Act, where it can be by registered post, by a process server or by other means, as long as it is served on an actual person and the normal place of abode, or the last recorded place of abode.

**Senator SIEWERT**—It is not just about process serving; it is also about contact in terms of questioning of workers. Is it all done by people who are employed by ABCC?

**Mr Hadgkiss**—It would be by investigators employed on a full-time basis by the ABCC.

**Senator SIEWERT**—So they are all employed and therefore they are all covered by the Public Service Act?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—Are ABCC inspectors allowed to record conversations or interviews with workers?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—Both with and without their consent?

**Mr Lloyd**—If they are conducting an investigation and conducting an interview, any investigator is entitled to record that. They have the opportunity, if they so desire; some wish to record matters by putting a tape recorder on the table or wherever they are and if they do that they would ask the person being interviewed, ‘Do you agree to having this interview taped?’ If they say no, the alternative is to sit there and record it in writing or on a laptop or something like that.

**Senator SIEWERT**—So workers are told that whenever they are interviewed?

**Mr Lloyd**—Yes.

**Senator MARSHALL**—There is no covert recording of conversations, then?

**Mr Lloyd**—No.

**Mr Hadgkiss**—That is not just confined to workers, that is all witnesses that we interview.

**Senator SIEWERT**—That is good clarification. If they are talking to family members, are they all told if conversations are recorded?

**Mr Hadgkiss**—I have never been aware of any family member being questioned about unlawful activity that would warrant that.

**Senator SIEWERT**—But if they were they would be told?

**Mr Hadgkiss**—In that hypothetical case, yes.

**Mr Lloyd**—But an exceptional case.

**Senator SIEWERT**—Are ABCC inspectors required to produce official identification when they are approaching employers and employees?

**Mr Lloyd**—Yes, they have a card with their photo on it and they are required to produce that.

**Senator SIEWERT**—And they do that on all occasions?

**Mr Lloyd**—Yes, that is the requirement.

**Senator SIEWERT**—What about if it is happening—

**Senator MARSHALL**—Sorry, are they required to wear it or just produce it?

**Mr Lloyd**—Produce it. It is a small card with their photo on it. It probably goes in a wallet or a purse or something like that. Some of them may wear it, but to my knowledge they are not required to wear it around their neck or anything like that.

**Senator SIEWERT**—How do they establish their identity if they are contacting people over the phone, which I understand has been happening?

**Mr Hadgkiss**—They would simply say who they are, their name and their position being an inspector with the Australian Building and Construction Commission.

**Senator SIEWERT**—You will appreciate that it is hard for the person being contacted to establish if they are bona fide or not?

**Mr Hadgkiss**—That is like any other agencies; we are no different.

**Senator SIEWERT**—Any other agency does not necessarily have the inspection powers and the powers that you have.

**Mr Lloyd**—I suppose it would be possible if someone was concerned to tell them to ring back on a number, or to ring back a supervisor and verify who the person is conducting it. If there is an acute concern about the identity of the inspector, that could be done.

**Senator SIEWERT**—When an inspector is contacting somebody, do they give somebody that information that they can actually take that opportunity to phone and double check their identity?

**Mr Hadgkiss**—I dare say not.

**Senator SIEWERT**—Do you think that would be a good process.

**Mr Hadgkiss**—We have had no complaints to that effect. Occasionally builders will query our people and they are given the hotline and they will verify who the person is, but it is an extremely rare occurrence.

**Senator SIEWERT**—What powers under the guidelines relate to the manner in which workers are summoned or given notice to appear before the ABCC to answer questions or produce documents? What guidelines are there available on that?

**Mr Hadgkiss**—On the website.

**Senator SIEWERT**—It is just on the website?

**Mr Hadgkiss**—If people ask for them they would be given an opportunity to get a photocopy. Most people where the compulsory powers have been used have been legally represented and their solicitor or barrister invariably has a copy, or we would tell them where it is to be found.

**Senator SIEWERT**—I will come back to legal representation shortly. How many inspector hours so far are you aware of that have been spent interviewing staff on work sites during the course of work days?

**Mr Lloyd**—We do not have that figure off hand. We know the number of inspectors that we have. As for the hours spent, we have also I think records of the number of visits to sites, but we do not keep a record unless I am advised otherwise of the actual hours spent by each inspector interviewing.

**Senator SIEWERT**—Is it possible to get a record? Is that publicly available?

**Mr Lloyd**—No, it would not be available.

**Senator SIEWERT**—When doing interviews, do the inspectors do them during normal breaks in construction activities such as meal breaks?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—Always during meal breaks or morning tea breaks or whatever?

**Mr Hadgkiss**—Certainly when the compulsory powers have been used breaks have been regular and likewise, with investigators talking to witnesses, my experience is that investigators get hungry or thirsty and they decide that it is time for a break after a reasonable period of time.

**Senator SIEWERT**—Sorry, I think I have either misinterpreted your answer or you have misinterpreted my question. I am pleased to know that they do allow people breaks when they are asking questions if that is what you were saying. What I was asking was does the questioning take place during a worker's break.

**Mr Hadgkiss**—No, it is normally at the convenience of the witness.

**Senator SIEWERT**—So they are not required to use up their morning tea or meal breaks?

**Mr Hadgkiss**—Normally people request that they be interviewed after hours at their home, or they will come into an office or whatever suits them. Of course the use of the compulsory powers is during office hours.

**Senator SIEWERT**—Just going into when you are actually talking to people, do you provide transport support for witnesses, particularly those who are travelling from remote areas?

**Mr Hadgkiss**—Not as in we send a plane or anything like that, no. If it was two weeks on and two weeks off, if it was a mine for instance, I am personally aware that we have waited for their two weeks off and they come to a city and we would arrange to meet there.

**Mr Lloyd**—With respect to travel to the person, in most occasions we would send our investigator inspector to the locality of the site.

**Senator SIEWERT**—This is a bigger picture question. My understanding is that these processes were put into place to increase productivity. Is there some measurement of any productivity gains that have been made as a result of these measures?

**Mr Lloyd**—As a result of what, sorry?

**Senator SIEWERT**—As a result of this activity, is there any formal measurement of any productivity gains as a result of this?

**Mr Lloyd**—You are certainly right, that is the purpose of the legislation. At the time of the royal commission there were a number of studies undertaken and tendered in evidence and it showed us considerable productivity gains that could be made if there were proper lawful practices. Since we have been operating there has been no formal study conducted as such.

**Senator SIEWERT**—Do you intend to do any?

**Mr Lloyd**—We may, but we have not taken a decision to do that.

**Senator SIEWERT**—If you have not, there is no further need to go any further on that one. Do you have a policy that prevents you from disclosing personal employee details that have been obtained from employers to anybody else?

**Mr Lloyd**—Certainly. It is not just a policy, it is in the act. There are quite onerous requirements about disclosure and substantial penalties for improper disclosure of personal information about persons.

**Senator SIEWERT**—How many inspectors are currently employed by the ABCC?

**Mr Lloyd**—We have a total employment of 70 staff. I do not have the exact figure for inspectors, but my estimate would be that it would probably be in the region of about 35 to 40.

**Senator SIEWERT**—Can you tell me where they are based?

**Mr Lloyd**—We have staff in all of the mainland capitals and there are investigators inspectors in each of those locations, so that is Melbourne, Sydney, Brisbane, Perth and Adelaide.

**Senator MARSHALL**—Can you provide a breakdown of how many and where?

**Mr Lloyd**—Yes, I have figures of total staff in each locality. I do not have a breakdown as to inspectors verses lawyers or administrative or corporate staff, but I can give you the figures now.

**Senator MARSHALL**—If you could give us the figures now that would be good, and if you could provide on notice the breakdown between inspectors that would be appreciated.

**Mr Lloyd**—The total staff numbers: there are 42 in Victoria, in Melbourne; 13 in Sydney; 6 in Brisbane; 8 in Perth; and 3 in Adelaide, for a total of 72.

**Senator SIEWERT**—Do you have a breakdown also of the cost of each of those?

**Mr Lloyd**—Their salaries and related costs?

**Senator SIEWERT**—Yes.

**Mr Lloyd**—Yes, we do. We could get that, yes.

**Senator SIEWERT**—If you could and, following up on Senator Marshall's comment on the breakdown of who does what in each of those offices. Sorry, I do not mean the day-to-day breakdown, but who are inspectors—

**Mr Lloyd**—Yes, I understand.

**Senator SIEWERT**—Do you have any regional officers?

**Mr Lloyd**—No.

**Senator SIEWERT**—Just those?

**Mr Lloyd**—Just those capitals.

**Senator SIEWERT**—All your staff are based in those major capitals?

**Mr Lloyd**—That is right.

**Senator MARSHALL**—Are you projecting an increase in your staffing levels over this financial year?

**Mr Lloyd**—Yes, we are.

**Senator MARSHALL**—Can you detail what those projections are?

**Mr Lloyd**—Our objective is to ultimately get to a staff of approximately 150. I am not sure when we will actually get there. I would think that we will, by the end of this year, be getting close to that but we may not reach the 150.

**Senator MARSHALL**—Can you provide the breakdown of what you expect it to be in terms of inspectors and other roles, and where they will be located?

**Mr Lloyd**—We can give you an estimate of that.

**Senator MARSHALL**—And the total wage cost allocated to that. One more question on staff: can you tell me what the total salary being paid to the ABCC commissioner and each of the deputy ABCC commissioners is?

**Mr Lloyd**—We are remunerated in accordance with the Remuneration Tribunal determinations.

**Senator MARSHALL**—I hope so.

**Mr Lloyd**—I do not have the overall figure, but we could provide that.

**Senator MARSHALL**—If you could, because I am interested in the rates. I assumed that it was a scale that is in public documentation, but I would like to know what level people have actually been slotted in at in that scale.

**Senator Abetz**—I think the senator is thinking of applying.

**Senator MARSHALL**—You never know, Senator Abetz. It is preselection time.

**Senator Abetz**—Yes.

**Senator McEWEN**—In terms of applying for jobs, would it also be possible to have the budget for advertising for staff recruitment?

**Mr Lloyd**—Yes, we could provide that.

**Senator McEWEN**—Thank you.

**Senator SIEWERT**—Do employers have the right to disclose to an employee that the ABCC—if I just say ‘commission’ will you know what I mean?—has asked for or been given access to private and personal employment information?

**Mr Hadgkiss**—That is subject to notices that are served on employers. Inspectors of the ABCC would obtain that kind of information pursuant to notices. Within 14 days, or at the conclusion of 14 days, that information would be obtained.

**Senator SIEWERT**—I think I have not phrased it properly. Can they tell an employee that the information has been requested?

**Mr Hadgkiss**—Yes, unless it is subject to the compulsory powers, of course.

**Senator SIEWERT**—Do you keep a record of the informal telephone contacts that are made to workers?

**Mr Hadgkiss**—Records?

**Senator SIEWERT**—Yes.

**Mr Hadgkiss**—As in tape recordings?

**Senator SIEWERT**—No.

**Mr Hadgkiss**—Yes. Invariably, on a day-to-day basis, investigators would make notes of attempts to contact witnesses and what witnesses say. That would be part of their investigatory material.

**Senator SIEWERT**—Are inspectors required to have contact with workers during authorised breaks?

**Mr Hadgkiss**—No. It is exceptionally difficult to get hold of a worker on a building site at any time of the day, even during a break.

**Senator SIEWERT**—So it is any time they can get them?

**Mr Hadgkiss**—Whenever it is convenient to the witness. For instance, if they have a mobile telephone, they would have it switched off, in our experience, for the majority of the day. They would simply leave a message on their voice mail that they have called, their name, who they are and the telephone number to contact them on.

**Senator SIEWERT**—Have you been applying the act retrospectively?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—To what date?

**Mr Hadgkiss**—To the date—I recall, it was March 2004—when the parliament agreed to that date.

**Senator SIEWERT**—I should have phrased it in more detail. I know this is not good English, but have you been going more retrospectively than March?

**Mr Hadgkiss**—Yes, where there are suspected unlawful actions and it is within the statute of limitations which, for relevant purposes, is two years. That is the maximum we can go back.

**Senator SIEWERT**—Can you run that past me again? The act, as I understood it, was retrospective to March.

**Mr Hadgkiss**—No, we are talking about the Workplace Relations Act now, not the BCII Act. If unlawful activity has occurred within the last two years, it is quite permissible for our inspectors to carry out inquiries and, indeed, there are matters that are nearly two years old still as active investigations.

**Senator SIEWERT**—Okay.

**Senator MARSHALL**—Yes, but the question that was being asked was in terms of the Building Industry Act in respect of retrospectivity—

**Mr Hadgkiss**—The retrospectivity?

**Senator MARSHALL**—That does not give you the power to go back two years prior to 1 March.

**Mr Hadgkiss**—To do with that confined aspect of that retrospective provision.

**Senator MARSHALL**—So any illegal activity that you are referring to occurred under the existing act as it stands now, which has been in force for more than two years.

**Mr Hadgkiss**—Yes. Correct.

**Senator SIEWERT**—Can you tell us what regulations, guidelines or statutes govern the conduct of hearings and to what extent the conduct of these hearings coincides with or differs from the conduct in an actual court of law?

**Mr Hadgkiss**—Firstly, these are investigatory functions that are being performed, pursuant to the examinations, unlike courts of law, particularly if you are referring to criminal courts of law. There are different standards—different rules of evidence, for instance.

**Senator SIEWERT**—Thank you for that differentiation, but what regulations or guidelines are you using to carry out those—

**Mr Hadgkiss**—The guidelines which we have already referred to. They are the guidelines which appear on our website, the guidelines which were based upon the guidelines agreed to by this parliament last year. Principally, they were modelled on the ACCC.

**Senator MARSHALL**—So, just so I am clear, the guidelines we are referring to are the disallowable instrument?

**Mr Hadgkiss**—That was the previous one for the Building Industry Taskforce exercise of compulsory powers. Since the creation of the new legislation, the ABCC has promulgated guidelines which are largely based on that disallowable instrument, and they now appear on our website.

**Senator MARSHALL**—Can you explain to me what the legal status of those guidelines is? What do you understand it to be?

**Mr Hadgkiss**—They are guidelines. They govern how the compulsory powers are effected.

**Senator MARSHALL**—What is the basis of authority that the guidelines have been issued on?

**Mr Hadgkiss**—They are issued by the commissioner and have the force of law in that there are many precedents for such guidelines—for example, the ACCC, the Australian Securities and Investment Commission, the Australian Crime Commission, APRA and so on and forth.

**Senator McEWEN**—So where would you stand if you were in breach of those guidelines?

**Mr Hadgkiss**—They are guidelines. They are how the compulsory powers are to be conducted.

**Mr Lloyd**—They closely reflect what is in the BCII Act. There is an extensive provision about how the compulsory powers are to be used, and the guidelines are based on those provisions in the building act.

**Senator MARSHALL**—Yes, but those guidelines are a disallowable instrument before the parliament.

**Mr Lloyd**—No.

**Senator MARSHALL**—Are you saying that these guidelines that we are referring to now have the same legal status as that?

**Mr Lloyd**—No, I am not.

**Senator MARSHALL**—Just so we are clear—I think there is some confusion about this. There are different guidelines under the different acts.

**Mr Hadgkiss**—Indeed, but to go back to Senator McEwen's hypothetical, it is no offence to breach either of the guidelines—the current guidelines or the guidelines which were agreed to by this parliament. They are administrative provisions by which the Building Industry Taskforce and now the ABCC must conduct these hearings, because the act is silent on that.

**Senator SIEWERT**—Can I seek a clarification there? The task force guidelines were a disallowable instrument?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—But the ones that you are operating on now are not?



**Mr Hadgkiss**—Correct.

**Senator SIEWERT**—You are using those as precedent.

**Mr Hadgkiss**—As in the ACCC, the Australian Securities and Investment Commission and other bodies with like powers.

**Senator SIEWERT**—But, as yet, they have not been tabled as a disallowable instrument?

**Mr Hadgkiss**—There is no requirement.

**Senator MARSHALL**—Do you actually understand that these guidelines have any legal status?

**Mr Hadgkiss**—Similar bodies like the ACCC regularly update their guidelines. These are those with which the ACCC and similar bodies have to comply when exercising these compulsory powers. They are an instrument as such, as I say, that is continually modified and updated, but they have also been the subject of challenge on many occasions in various courts. They are seen to be an agreed basis upon which these bodies conduct their compulsory powers.

**Senator SIEWERT**—On what basis can a commissioner or a deputy commissioner seek to impose restrictions on the role of legal representation at a hearing?

**Mr Hadgkiss**—On a case-by-case basis.

**Senator SIEWERT**—How is that decision made?

**Mr Hadgkiss**—That decision is made if the commissioner or deputy commissioner believes that an investigation could be compromised or that there may be a conflict of interest on the part of the legal practitioner appearing.

**Senator SIEWERT**—My understanding—I am not a lawyer—is that in a court of law a judge does not have the power to require a legal representative to leave a court.

**Mr Hadgkiss**—Again, these powers have to be distinguished from those of a court of law but, indeed, my understanding is that courts of law will prevent certain legal practitioners acting for certain clients, if there is a conflict. But here we are talking about an investigation under way and that investigation being thwarted, either because of a conflict of interest or the confidentiality and integrity of the investigation being compromised.

**Senator SIEWERT**—Who determines the potential conflict of interest?

**Mr Hadgkiss**—The commissioner or the deputy hearing that particular matter.

**Senator SIEWERT**—On what basis do the legal representative and the person being interviewed find out or get to argue the point of the conflict of interest?

**Mr Hadgkiss**—This has been argued. On each occasion, the witness concerned is still permitted to have a legal representative.

**Senator SIEWERT**—Is a legal representative not able to represent more than one client, and also bound by confidentiality?

**Mr Hadgkiss**—Absolutely. This is not a blanket policy. As I say, this is on a case-by-case basis.

**Senator SIEWERT**—Can you see that it does raise a lot of questions if the power of the commissioner to determine conflict of interest is done on a case-by-case basis?

**Mr Hadgkiss**—But, with respect, any decision that was adverse to a particular legal practitioner can be the subject of challenge by way of going to the Federal Court. There are many precedents for this. Indeed, again, the ACCC and the Australian Crime Commission have had similar disagreements whereby legal practitioners have said they have a right to appear and courts have overruled that right.

**Senator SIEWERT**—If the legal representative of a person being interviewed is excluded from hearings, does the hearing stop and the person can then go and find another legal representative?

**Mr Hadgkiss**—On the few occasions that this has occurred, an extension of time has been granted to each witness to obtain a legal representative. On some occasions, they have returned the same day. On other occasions, it has been several weeks.

**Senator MARSHALL**—How many times has it occurred? You said a few, so I was hoping you could—

**Mr Hadgkiss**—It has only been one particular lawyer.

**Senator MARSHALL**—It has happened once?

**Mr Hadgkiss**—In terms of one lawyer, yes. The same lawyer has come back several times.

**Senator MARSHALL**—How many?

**Mr Hadgkiss**—Several.

**Senator MARSHALL**—Can you be—does several mean seven?

**Senator Abetz**—It means fewer than five, I think.

**Mr Hadgkiss**—I would say that on a handful of occasions the same lawyer has come back. The precise number I am prepared to take on notice, if you really wish that figure.

**Senator MARSHALL**—No, well—it was not tongue in cheek, I would like to know.

**Mr Hadgkiss**—There has been one lawyer to date who has continued to come back representing clients in the identical investigation in identical circumstances.

**Senator MARSHALL**—All right.

**Mr Hadgkiss**—I have heard the evidence on each occasion.

**Senator MARSHALL**—You will be able to take it on notice and inform us on how many occasions it has taken place?

**Mr Hadgkiss**—Whether it is five or six, or whatever this particular legal representative has—

**Senator MARSHALL**—However many it is, yes. We nearly narrowed it down to five or six then.

**Mr Hadgkiss**—We are nearly there.

**CHAIR**—Senator Siewert, are you continuing?

**Senator SIEWERT**—Yes. I am checking, making sure that in our discussions we are talking about the things I want to know. I am hopping around a bit, but I want to go back to what workers' entitlements workers have when they are summonsed before the ABCC. If they are required to be away from work for a period of time, what entitlements do they have for making sure they are not losing out in terms of pay or entitlements?

**Mr Hadgkiss**—The act as it currently stands makes no provision for the payment of out-of-pocket work expenses but, certainly, provision can be made for travel and those kinds of out-of-pocket expenses. If their employer is not prepared to pay them for the few hours that they appear before the commission, as I say, the act is silent on that at the moment.

**Senator MARSHALL**—Would it be an unlawful reason for termination if an employer sacked an employee for not turning up for work in that period?

**Mr Hadgkiss**—I believe it would. I am not aware of a situation where anyone has been jeopardised as a result.

**Senator MARSHALL**—I am not worried about whether it has happened yet, because the acts are new—in fact, that part of the WorkChoices bill is not even in yet. Can you give formal advice to the committee about it?

**Mr Hadgkiss**—We will get a legal opinion on that, but it is somewhat akin—

**Senator MARSHALL**—I am not actually asking for a legal opinion, but whether or not that circumstance we just talked about would be an unlawful reason under the WorkChoices legislation.

**Mr Hadgkiss**—As I say, I will provide a legal opinion.

**Senator MARSHALL**—That is good. Do not get it from Minister Abetz, please.

**Senator Abetz**—Don't you want—

**Senator SIEWERT**—Has the commission imposed any fines or penalties on individuals who have not appeared or who have not answered questions or produced documents?

**Mr Hadgkiss**—No.

**Senator SIEWERT**—You have not?

**Mr Hadgkiss**—We do not have that power. That would be a matter on which we would have to go to a court.

**Senator SIEWERT**—I will rephrase that. Have you taken steps to require that to happen?

**Mr Hadgkiss**—No.

**Senator SIEWERT**—You are not contemplating any in the immediate future?

**Mr Hadgkiss**—No. Full compliance has been made so far. When I say that, in the previous legislation, the Workplace Relations Act, we had one prosecution for an employer failing to comply with a notice. That individual was taken to a magistrates court and dealt with.

**Senator SIEWERT**—That is the one occasion?

**Mr Hadgkiss**—Yes.

**Senator MARSHALL**—That case is concluded?

**Mr Hadgkiss**—That case was concluded, yes.

**Senator MARSHALL**—That is on your website?

**Mr Hadgkiss**—I believe so. The finalisation of that matter has occurred since the creation of the ABCC, since October. But the prosecution had its genesis in the Building Industry Taskforce.

**Senator MARSHALL**—So will the ABCC continue on with that process of listing all prosecutions and their outcomes on the website?

**Mr Hadgkiss**—Yes, it is our intention.

**Senator SIEWERT**—What is the procedure where a worker believes that they have got a grievance or that the conduct of the commission, its inspectors or its hearings is inappropriate or contravenes any of the guidelines? What procedures do you have in place to facilitate that complaint?

**Mr Hadgkiss**—I think the commissioner already mentioned that there are complaint mechanisms. We are subject to the Public Service Act.

**Senator SIEWERT**—Yes. Before I was asking specifically about inspectors and you went through the use of the Public Service Act. What happens if they have complaints in general about the manner in which the commission is conducting hearings or they think you have breached your own guidelines?

**Mr Hadgkiss**—They could go and make a complaint, either to the commissioner or to the ombudsman's office.

**Senator SIEWERT**—So they would go to the body that, in fact, they are going to complain about, or they have to go through the ombudsman; is that right?

**Mr Hadgkiss**—They have a choice. If they have no confidence in the commissioner, they could go to the ombudsman.

**CHAIR**—All right. We will leave it there. We will break for dinner for one hour and resume at 7.30 to go on with the Australian Building and Construction Commission.

#### **Proceedings suspended from 6.30 pm to 7.34 pm**

**Senator SIEWERT**—Can you tell me about the restrictions that are placed on legal representatives in hearings?

**Mr Hadgkiss**—Yes, the person concerned would have to be entitled to practise as a barrister or solicitor or both in a Federal Court.

**Senator SIEWERT**—In the practice in the hearings are there any restrictions on what they can and cannot do in those hearings? It would be different to normal client representations?

**Mr Hadgkiss**—Yes, it is.

**Senator SIEWERT**—And what are those?

**Mr Hadgkiss**—They are confined to what is set out in the guidelines.

**Senator SIEWERT**—Those are the guidelines which we were talking about before about the conduct of hearings?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—Why are they restricted further than what would be in a court?

**Mr Hadgkiss**—They are not to the extent that they are permitted re-examination of the witness at the conclusion of the witness's evidence.

**Senator SIEWERT**—They are not?

**Mr Hadgkiss**—They are.

**Senator SIEWERT**—Other than that are there other restrictions placed on them?

**Mr Hadgkiss**—They would ensure that the proceedings conform with the law.

**Senator SIEWERT**—The legal representatives?

**Mr Hadgkiss**—The legal representatives, yes, in the interest of their client.

**Senator SIEWERT**—What you have just explained I do not see as a restriction on their role?

**Mr Hadgkiss**—On the contrary, they are there to represent their client and the guidelines are quite specific as to what their role is.

**Senator SIEWERT**—Do those guidelines spell out any other role that they have beyond what would normally be expected in a formal court of law?

**Mr Hadgkiss**—Anything beyond that?

**Senator SIEWERT**—Yes.

**Mr Hadgkiss**—I do not believe that they have anything beyond that, no. With respect, it is I would submit inappropriate that we make a comparison between a legal representative in a court of law and a legal representative before inquiries carried out by bodies empowered with compulsory powers, such as the ACCC, ASIC and so on.

**Senator SIEWERT**—I would still expect though that people still have rights, that they still have rights to legal representation and that they can expect that they should be able to have their legal representative there without undue restrictions?

**Mr Hadgkiss**—Within, as I say, what is contained in the guidelines, which has been modelled on guidelines approved by this parliament.

**Senator SIEWERT**—I realise we have been there and I will not go there again. In the second reading speech it was clearly pointed out that one of the roles of the commission was to provide advice, assistance, information and education to industry parties on the proposed act, the BCII Act, Workplace Relations Act in codes et cetera. Can you tell me how the commission is fulfilling that role?

**Mr Lloyd**—In a lot of ways. We have for instance a website where we have a range of information on that website about rights and obligations. We also of course meet and give presentations to groups of people from all parts of the industry. We have fact sheets which cover a range of key topics which are on the website but also can be delivered to people in hard copy. We have a hotline where people are entitled to ring in and ask for advice and information. There are quite a number of ways. We also, for example, have prepared and we

have placed articles in journals of associations. So in as many ways as we can, we are trying to reach the people in the industry. We take that responsibility very seriously.

**Senator SIEWERT**—Industry parties—do you take that to mean workers as well as employers?

**Mr Lloyd**—Yes, anybody—contractor, subcontractors, owners, workers, union members, anybody involved in the industry.

**Senator SIEWERT**—Do you ensure that all people who are coming in contact with inspectors and with the commission are informed of their rights before they are questioned, be it formally or informally?

**Mr Lloyd**—In the event that someone is suspected of breaking the law a caution would be administered, but if it is a normal witness there is no requirement other than to explain that the inspector is carrying out an investigation pursuant to whatever piece of legislation and seek their assistance. If we are talking about people suspected, that is quite different than people who may be able to throw light upon our investigations. So there are two different categories of people here.

**Senator SIEWERT**—I understand that, but you would also probably understand that some people may, even though they are not being suspected but you are just questioning them, also be concerned when they are approached for whatever reason and may need to know or may want to know their rights.

**Mr Hadgkiss**—That would be explained to them by the inspector.

**Senator SIEWERT**—I understood from what your answer was just then that on some occasions there would not be, but from what you have just subsequently said they in fact would be.

**Mr Hadgkiss**—What rights do you have in mind?

**Senator SIEWERT**—Whether they have to answer questions, under what part of the legislation they do have to answer questions—even if they are not being suspected they may want legal representation.

**Mr Hadgkiss**—It would be explained to them that it is a voluntary exercise. There is no compulsion upon them to answer questions, unlike the compulsory powers. Of course, if they wish to have a lawyer present, or a friend present or whoever present—a union official in the case of a worker—then that is their entitlement.

**Senator SIEWERT**—So that is explained to them up front?

**Mr Hadgkiss**—Yes.

**Senator SIEWERT**—They do not have to ask, because you will also appreciate that some people are unaware that they should ask.

**Mr Hadgkiss**—In no way would a person's predicament be taken advantage of.

**Senator SIEWERT**—Thank you.

**Senator MARSHALL**—Mr Lloyd, I see that you have become 'honourable' since you last appeared before the estimates.

**Mr Lloyd**—I know. I was honourable last time, too.

**Senator MARSHALL**—Just thought you might explain your new role.

**Mr Lloyd**—My previous position was as a member of the Australian Industrial Relations Commission where I was the Honourable John Lloyd.

**Senator MARSHALL**—It simply has not been a new appointment?

**Mr Lloyd**—I retained it. It is not a new appointment.

**Senator MARSHALL**—It was an oversight with your labelling last time.

**Senator Abetz**—Is there no chance of Mr Hadgkiss becoming honourable?

**Mr Hadgkiss**—No, I am just humble Hadgkiss.

**Senator MARSHALL**—Thank you, Mr Hadgkiss. Can you tell me how many investigations are currently being considered by the ABCC?

**Mr Lloyd**—The number of current investigations is 71.

**Senator MARSHALL**—How many of those were handed over to you from the former Building Industry Taskforce?

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

**Senator MARSHALL**—Were any matters that were formerly being undertaken by the Building Industry Taskforce being discontinued by the ABCC?

**Mr Hadgkiss**—Yes, there would be.

**Senator MARSHALL**—How many are there?

**Mr Hadgkiss**—That would be very difficult; there are a number. By way of example, we have received, since the inception of the ABCC, some 637 inquiries. We managed to resolve 475 of those. So the vast majority of matters are terminated as it were.

**Senator MARSHALL**—No. You have misunderstood my question.

**Mr Lloyd**—I might be able to help you. Since commencement of the ABCC there have been 17 investigations recorded as finalised, which is no further action. I do not know and I cannot tell you tonight what number of those were former ones taken over and what ones were just ABCC only investigations.

**Senator MARSHALL**—If you could get that information for me I would appreciate it, thank you. Can you tell me on how many separate occasions the ABCC has exercised the coercive powers available to it under part 2 of chapter 7 of the Building Construction Industry Improvement Bill?

**Mr Hadgkiss**—I can give you an approximate figure.

**Senator MARSHALL**—You can give me your approximation.

**Mr Hadgkiss**—Approximately less than 20.

**Senator MARSHALL**—And to how many persons would that have applied?

**Mr Hadgkiss**—Whatever the figure, it would be fewer than 20 separate occasions.

**Senator MARSHALL**—So on each occasion it is applied to a single person?

**Mr Hadgkiss**—It is only applied to a person and that person has then been discharged at the completion of that hearing.

**Senator MARSHALL**—Can you just explain to me how the ABCC obtains external legal advice and representation?

**Mr Lloyd**—We have a panel. We actually use the DEWR panel for our external legal advice and we select from that panel of legal providers.

**Senator MARSHALL**—Under the DEWR arrangements?

**Mr Lloyd**—Yes. We plan to move to our own panel and that process is under way.

**Senator MARSHALL**—Can you tell me the cost of the external legal advice that you have used from the panel so far?

**Mr Lloyd**—Yes. Just for the ABCC?

**Senator MARSHALL**—Yes.

**Mr Lloyd**—\$1.4 million.

**Senator MARSHALL**—Did you inherit fees that were racked up so to speak by the Building Industry Taskforce?

**Mr Lloyd**—Yes.

**Senator MARSHALL**—I am just trying to work out what the total cost includes.

**Mr Lloyd**—Actually, the figure I gave you is for the financial year so it would include both task force and ABCC matters.

**Senator MARSHALL**—I would be interested to know whether or not your legal costs under the new arrangements are proportional to what the Building Industry Taskforce was, so you may want to take that on notice for me and provide the breakdown.

**Mr Lloyd**—Yes.

**Senator MARSHALL**—Can you tell me which law firms you have used from the panel?

**Mr Lloyd**—Yes. We have used the Australian Government Solicitor, Blake Dawson Waldron, Freehills, Minter Ellison, Phillips Fox and Deacons.

**Senator MARSHALL**—Will you be able to provide me with the breakdown of costs that go with each of those firms?

**Mr Lloyd**—Yes, we can.

**Senator MARSHALL**—Can you tell me what response you will be providing to the adverse findings and criticisms made by the International Labour Organisation committee on freedom of association in its report on the building construction industry legislation of November 2005?

**Mr Lloyd**—That is a matter for the Australian government.

**Senator MARSHALL**—You are not providing advice to the government on that?

**Mr Lloyd**—No.



**Senator MARSHALL**—Who would be?

**Mr Lloyd**—It would be developed in DEWR, I would imagine.

**Senator MARSHALL**—Can you tell me how many certified agreements—actually that might be DEWR, too, I think. No—sorry, I think this is appropriate for you, and if it is not you can advise me. I am just wondering how many certified agreements you have reviewed for compliance with the national code of practice for the construction industry since the most recent changes in September 2005?

**Mr Lloyd**—It is a function of DEWR to assess the certified agreements.

**Senator MARSHALL**—Do you provide advice into that at all?

**Mr Lloyd**—No.

**Senator MARSHALL**—I think last time I asked you, in question No. W646 of 2006, questions in relation to investigations of possible breaches of the Building Construction Industry Improvement Act 2005 between 10 March 2005 and 6 September 2005. There were a number of questions there. Are you able to update your answer in respect to that question up until now?

**Mr Lloyd**—Which number question was that?

**Senator MARSHALL**—W646 of 2006.

**Mr Lloyd**—Yes, we could update that. I would have to take that on notice.

**Senator MARSHALL**—That is fine. I also asked you at W652 of 2006 about property that you were considering either purchasing or leasing to carry out your function. I am just wondering whether you can update me on what property you are looking at in that respect.

**Mr Lloyd**—We are in the process of finalising our property. We are not in our permanent, final premises yet. Some premises have been selected but the final fit-out and occupancy has not been finalised as yet. So there is not a great deal that we can add at this stage.

**Senator MARSHALL**—Where will those properties be?

**Mr Lloyd**—They will be in all the cities where we are currently.

**Senator MARSHALL**—Which is Melbourne, Sydney, Adelaide, Perth and Brisbane?

**Mr Lloyd**—That is right.

**Senator MARSHALL**—And you do not intend on being anywhere else?

**Mr Lloyd**—No.

**Senator MARSHALL**—The head office will be where?

**Mr Lloyd**—Melbourne.

**Senator MARSHALL**—I am happy to go to the OEA.

**CHAIR**—All right.

**Mr Lloyd**—I wanted to sort of amplify. I was asked about whether I was consulted on the ILO response which was provided by the Australian government, but I actually did provide some input into an early draft of the response from DEWR.

**Senator MARSHALL**—Can you assist me further with that or not?

**Mr Lloyd**—No. As a draft of the response it was shown to me for comment and I provided some comments back. As to what happened to it, I do not know what the final response was.

**Senator WONG**—What was the nature of your comments?

**Mr Lloyd**—It was advice to government.

**Senator WONG**—Are you a statutory agency?

**Mr Lloyd**—I am, a statutory office, yes.

**Senator WONG**—So is there a difficulty with you telling us what your comments were, given that you gave those comments in the context of that office and not as a public servant?

**Mr Lloyd**—As a public official—

**Senator WONG**—You are not under the Public Service Act, are you?

**Mr Lloyd**—I am appointed under this act.

**Senator WONG**—Just as ASIC indicates to us what their comments or propositions to government are, precisely the same arrangement should apply to you. That is one of the joys of holding a statutory office, I suppose.

**Senator Abetz**—How about the question be taken on notice so that that position can be clarified and, if it is, then undoubtedly the answer would be forthcoming.

**Senator WONG**—Did you provide those comments in written form?

**Mr Lloyd**—Yes, I did.

**Senator WONG**—Perhaps you can take on notice our request for provision of those.

**Mr Lloyd**—Yes.

**CHAIR**—Good. Thank you. Thank you, gentlemen. I will now call the Office of the Employment Advocate.

[7.54 pm]

#### **Office of the Employment Advocate**

**CHAIR**—I welcome Mr McIlwain and officers from the Office of the Employment Advocate and call for questions. Senator Siewert?

**Senator SIEWERT**—I have some questions to follow up some of the answers you gave to questions on notice last time. I asked a series of questions around the work-life balance provisions, which I have temporarily misplaced it. It was from your annual report, which was here literally two minutes ago. In your answer, you said that you had been looking at four companies?

**Mr McIlwain**—Yes, that is correct, four companies based in South Australia as part of case study research into the benefits of introducing work and family provisions into workplaces through Australian workplace agreements.

**Senator SIEWERT**—How did you decide which companies you were going to use?

**Mr McIlwain**—If my memory serves me correctly, the choice was made partly from knowledge we had gained through employers at one or two of the companies already being AWA employers, and one or two of the other companies expressing an interest in making AWAs. I think, in one instance, the company came onto our radar through some information that one of our staff was aware of in their life outside the OEA. It was, I guess, a mixture of ways we became aware of those companies. We considered a number, but those were the four that eventually went through to be the four subject case studies for that research.

**Senator SIEWERT**—You say in your answer that I think you then made some suggested clauses for inclusion in workplace agreements. Were they for those specific companies?

**Mr McIlwain**—I believe that, as a result of the research process—and there were a number of stages to that—an assessment was done for each of those workplaces. Employees and the employer were consulted and the assessment led to recommendations about how work-life balance in those workplaces might be improved through provisions that could be included in AWAs. There was a degree of customisation of that process. It was a kind of consulting process for those four subject companies.

**Senator SIEWERT**—But they were specific to those companies. They have not been turned into examples?

**Mr McIlwain**—They were specific to those companies but, as is quite often the case, those provisions might have a general application and be of utility to a number of workplaces—perhaps, in fact, even hundreds or thousands of workplaces around the country.

**Senator SIEWERT**—I also asked a question about whether AWAs that had been signed were in breach where the employee found out they had not been supplied to your office. In your response you said that it is not a breach of the Workplace Relations Act not to submit AWAs. Can you explain that a little bit more? You went on to explain that if the matter comes to your attention you provide certain advice. On what basis do you provide the advice if it is not a breach?

**Mr McIlwain**—I understand your question. There is no breach of the law in not lodging an AWA that has been signed. However we would see it, of course, as in the best interests of AWA making and of Australian workers and employers to deal with situations that come to our attention by providing education and advice to the employer. Indeed, that is what we do. We see it as part of our educational functions under the act with regard to AWA making.

**Senator SIEWERT**—You also said in your response that there had been 27 unsigned AWAs lodged. What do you do when you find that out, because there is a difference between when you find out a company has not lodged one and ones that have been lodged unsigned.

**Mr McIlwain**—An AWA that has been lodged unsigned by one or other of the parties is not a valid AWA because, of course, an AWA is an agreement between the two parties. An AWA that lacks the signature of one of the parties is ineffective and cannot operate in that form. It is part of our educational responsibilities and, more directly, regulatory responsibilities in the specific case where an agreement has already been lodged to tell the parties that there is a problem with that agreement and that the agreement has to be properly made and relogged.

**Senator SIEWERT**—So you go back to the party?

**Mr McIlwain**—Yes, we would go back to the employer, typically, and point out that an agreement has been lodged without an employee's signature and that that agreement, of course, cannot be operational without the signature of the employee. Likewise, it is the same if the employer has not signed. I should also mention that part of our process since the advent of AWAs has been to send to every employee for whom an AWA is lodged what we call a genuine consent letter. It is an administrative creation. It is not provided for in the legislation, but it was determined by the first Employment Advocate to be an effective way of being satisfied, or contributing to satisfaction, that the employee did genuinely consent to the agreement. If an agreement has been lodged without the employee's knowledge, without their signature, it gives them an opportunity at that point to contact us. Indeed, the letter invites them to call our call centre and express any concerns they might have.

**Senator SIEWERT**—Do you send that letter to their home address or their work address?

**Mr McIlwain**—It goes to their home address.

**Senator SIEWERT**—I have also some specific questions following up the issue that I raised last time about Shamrock Holdings. You may recall that I was asking some questions about a situation there which you then referred on to DEWR, as I understand it. Can you explain where you received the advice, or is it normal practice to refer a matter like that on to DEWR?

**Mr McIlwain**—It was not a matter of receiving advice that we should refer the matter on to DEWR. We knew, because of the nature of the alleged misconduct, that it was something that should be referred to DEWR for handling through their fraud investigation unit. The issue is that we felt that there was a prima facie case, after investigation, that the agreement for the employee in question had been fraudulently signed by a person other than the employee. That is a matter that we knew should be referred to DEWR's fraud investigation team, and that is what we did.

**Senator SIEWERT**—I understand that it took quite a while for it to be referred from the office through to DEWR. Is that normal, or was it for some reason delayed and, if so, why?

**Mr McIlwain**—It is not normal. In fact, we dispose of most complaints of this nature—in fact, 82 per cent of them—within 40 working days. The circumstances here that were different concerned the difficulty in being able to interview the people we needed to interview. As Mr Rushton said previously in evidence, there has been the tyranny of distance operating in Western Australia—the remoteness of a mining community—and there were some other delays in being able to obtain the cooperation of some of the people we needed to interview.

**Senator SIEWERT**—There are another couple of issues I want to raise there. One is, to go back to the referring of it to DEWR, are all cases where you think things are perhaps fraudulent automatically referred on to DEWR?

**Mr Rushton**—The case was reasonably unusual in that we do not get an enormous number of fraudulent matters. The OEA has the capacity to investigate breaches of the Workplace Relations Act, and that is what we did initially in this matter; we sought to investigate the matter in relation to potential breaches of the act. Once we had completed that process we

determined that there was no basis for proceeding with any action under the Workplace Relations Act itself, but there was, as the Employment Advocate has said, an issue about the signing of the AWA and more particularly, I guess, potentially the making of a false declaration where the employer had said that the AWA had been signed, which then raises the issue of potential breaches of the criminal code. It is in those circumstances then that we decided to refer the matter to the DEWR fraud investigation team. They have carried on the investigation since then.

**Senator SIEWERT**—That was all I wanted to clarify—whether that happens in all cases. Has the employee involved been informed that it has been referred?

**Mr Rushton**—Yes.

**Senator SIEWERT**—Did that occur fairly rapidly, given the issues with communication and so forth?

**Mr Rushton**—It was in fact the union, which had made representations on his behalf, which we informed. It was the CFMEU.

**Senator SIEWERT**—They were informed promptly?

**Mr Rushton**—They were informed when the matter was referred, in fact.

**Senator SIEWERT**—You said before that this has not occurred very often. How many times are you aware—you have given me a list of the other breaches you have investigated. How many have you found to have been fraudulent activities?

**Mr McIlwain**—Whilst the facts of each of the cases are different, it is our recollection at the moment that there have been three matters involving AWAs where we have seen prima facie evidence of a fraud of some kind having occurred, including this matter.

**Senator SIEWERT**—They have all been referred?

**Mr Rushton**—They have.

**Senator SIEWERT**—Are they all still under investigation?

**Mr Rushton**—The other two are not. They have been completed.

**Senator SIEWERT**—But you are still investigating this one, the actual—

**Mr Rushton**—That is right. The DEWR fraud investigation team have not completed their investigation of this one.

**Senator SIEWERT**—How long do you expect that to take?

**Mr Rushton**—We did get an update as to where things were at in January 2006, but there was not an indication of an end date then, unfortunately.

**Senator SIEWERT**—The investigation is still ongoing?

**Mr Rushton**—The investigation is still ongoing and we are not certain of an end date at this stage.

**Senator SIEWERT**—The other two matters—when were those complaints received?

**Mr Rushton**—The first complaint was received in July 2003 and the second matter some time around April 2004.

**Senator SIEWERT**—How long did it take to resolve those two matters?

**Mr McIlwain**—We will refer quickly, if we may, to a chronology we have. The first matter we mentioned, the one that arose in July 2003, was concluded in the Rockingham Court of Petty Sessions on 29 June 2005. The second one we mentioned we would have to take on notice. I am afraid we do not have the date on which that was concluded.

**Senator SIEWERT**—You have just answered the next part of my question; thank you for that. If an employee thinks that an AWA has been lodged with a fraudulent signature without their knowledge, are they able to get a copy of their AWA by phoning the OEA?

**Mr McIlwain**—Yes. Any employee for whom an AWA has been lodged may obtain a copy of the agreement as lodged from the OEA.

**Senator SIEWERT**—How do you check that signatures are bona fide?

**Mr McIlwain**—We are like many other regulatory agencies, in that in the absence of a complaint or evidence to the contrary, we assume the signature on a legal document to be a true and correct signature by the party. As I said, we do send a genuine consent letter to every employee that gives them the opportunity to respond and indicate if they have not signed an agreement. Additionally, employers lodging AWAs are required by law to make a declaration and, amongst other things, they have to declare that the agreement has been honestly and properly executed.

**Senator SIEWERT**—Two follow-up questions to that one. When did you start that? If you said it before, it slipped past me. When did you start that practice of sending the letters?

**Mr McIlwain**—That practice has occurred from March 1997, when it first became possible.

**Senator SIEWERT**—Okay.

**Mr McIlwain**—Mr Rushton will correct me. It was in fact a month or so later, I think April 1997, when the first AWAs could lawfully be launched.

**Senator SIEWERT**—Will that practice continue, sending out the letters when AWAs are received?

**Mr McIlwain**—Will it continue under the reformed legislation?

**Senator SIEWERT**—Yes.

**Mr McIlwain**—No, it will not, because the entire regime for the lodgment of AWAs will be different from the current regime.

**Senator SIEWERT**—That is why I asked. When I asked the question about how do people find out if an unsigned AWA or a fraudulently signed AWA has been lodged, you said that one of the ways that people can find out is by sending a letter back. But now that is not going happen, is it?

**Mr McIlwain**—They will not receive a genuine consent letter, but they will receive at their home address a receipt from the OEA indicating that an agreement has been lodged in the name of an employer and that employee. Whilst they will not receive a genuine consent letter

because the schema of the reform legislation is different, they will in fact receive a receipt, and that receipt will go to the employee's home address.

**Senator SIEWERT**—I am just going to jump back. I am not meaning to jump around; it just hit my mind before. When we were talking about the 27 unsigned AWAs that were lodged in 2004-05, how many of those have subsequently been fixed? Have they all subsequently been fixed?

**Mr McIlwain**—I am not able to answer that. I do not have that information with me.

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

**Mr McIlwain**—I will take that on notice and see if we are able to reconcile those 27 with an outcome.

**Senator SIEWERT**—That is all.

**Senator MARSHALL**—Most of my questions for you—and this is all we have time for—will be in respect of questions I asked last time. We know that from previous answers your promotion of AWAs amounted to nine per cent of your expenditure. Can you now tell me how much of your budget you expect to spend on promotion of AWA activities?

**Mr McIlwain**—In the current financial year it is intended that the OEA will spend \$3,972,151 on the promotion of workplace agreements. That includes direct staff costs, the costs of production and printing of promotional materials, media costs and some advertising costs.

**Senator MARSHALL**—Can you give me the figures broken down under those headings?

**Mr McIlwain**—Yes, I can. Direct staff costs total \$1,844,541.

**Senator MARSHALL**—How many people is that for?

**Mr McIlwain**—We will have to take that one on notice. Production, printing and distribution of publications, promotional and display materials, web page design, events, \$2,062,009.

**Senator MARSHALL**—That was a fairly general topic. Are you able to break that down into how much you budgeted for each of those topics?

**Mr McIlwain**—We would have to take that one on notice.

**Senator MARSHALL**—If you could.

**Mr McIlwain**—Media costs, which covers media monitoring and the distribution of media releases, was \$55,255. Advertising costs—and this is advertising largely in rural and regional press for seminars and local events—were \$10,346.

**Senator MARSHALL**—Were you provided with an additional supplementation for the promotion of AWAs?

**Mr McIlwain**—In the additional estimates?

**Senator MARSHALL**—Yes.

**Mr McIlwain**—We have been provided in total in the additional estimates for 2005-06 additional funding of \$6.7 million. Some of that will be for the promotion of workplace

agreements, both collective and individual workplace agreements, from the commencement of the OEA's new responsibilities.

**Senator MARSHALL**—Can you break that down into the areas of smaller detail as per the previous question?

**Mr McIlwain**—Yes, we will take that on notice.

**Senator MARSHALL**—Is it a long list?

**Mr McIlwain**—If you are asking for a further breakdown of direct promotional costs, I do not have that with me, but I do have a breakdown of the \$6.7 million according to broader functional areas.

**Senator MARSHALL**—If you could provide that to the committee that would be appreciated. Going back to the first question, what percentage of promotion of AWAs does that now amount to under your new arrangements?

**Mr McIlwain**—I am sorry?

**Senator MARSHALL**—Last year the promotion of AWAs amounted to nine per cent of your total expenditure. Given your promotional expenditure that you have just outlined, what will that be in percentage terms?

**Mr McIlwain**—We will try and work that out, if we may have a moment.

**Senator MARSHALL**—I am interested in making a comparison with the budget allocation for activities related to both the approval and enforcing compliance of AWAs, too. Can you provide me with information about how much is going to be spent on those activities and where that sits in terms of the percentage expenditure?

**Mr McIlwain**—We have that information with us, if you will bear with us for a moment.

**Senator MARSHALL**—While you are looking, I can go on to another question. What proportion of your budget do you expect will be focused on the lodgment of AWAs? I am also interested to know what you have budgeted for the administration of those processes and if you could provide a breakdown of the numbers and staffing levels for the lodgment function?

**Mr McIlwain**—Yes. Lodgment process direct costs will amount to, of the 2005-06 allocation for the OEA, 21 per cent. As to the staffing numbers we would expect by the end of the current financial year, 2005-06, I do not have with me a final figure. I should explain that the lodgment process is being administered in our new proposed structure by a unit that will be responsible both for the lodgment process and for the operation of a contact centre. Whilst I have an aggregated figure—and in fact the figure of 21 per cent I just mentioned to you is an aggregated figure also—I do not have with me a final split, which would be a notional split, of resources within that unit divided between the contact centre function and the lodgment function. One reason for that is that the new responsibilities that the OEA has require the establishment of an entirely new IT system to manage the lodgment of agreements. That is in its final stages of development and testing at the moment, but is not yet in production. Nor have we had yet of course any agreements lodged under the reformed legislation. It may be several months before we determine a final notional split of resources between the lodgment function and the contact centre function.



**Senator MARSHALL**—When do you expect the new IT system to be up and running and functional?

**Mr McIlwain**—The target date for production release of the new IT system is 1 March.

**Senator MARSHALL**—Will you make that?

**Mr McIlwain**—Yes.

**Senator MARSHALL**—Was there an additional supplementation for the funding of OEA community organisations?

**Mr McIlwain**—No. The current contractual arrangements, which are in place until 31 August this year, continue to apply. There has been no variation to the funding for community partners.

**Senator MARSHALL**—Of the \$1,361,610.48 you received for that, can you tell me how much has been disbursed to date and how much remains?

**Mr McIlwain**—I do not have a year-to-date figure for that. We could take that on notice.

**Senator MARSHALL**—How many OEA workplace relations advisers are currently employed?

**Mr McIlwain**—As at 26 January, the headcount for workplace relations advisers was 78. The FTE, of course, would be somewhat less than that.

**Senator MARSHALL**—I would be happy for you to take this on notice. Could you identify the locations of any people employed in employer organisations, and how many there are?

**Mr McIlwain**—I can give you that now. Of the 78, there are eight in Adelaide, nine in Brisbane, one in Darwin, four in Hobart, 16 in Melbourne, 15 in Perth, 25 in Sydney; and none currently seconded to employer associations.

**Senator MARSHALL**—Are there plans to second any to employer organisations or has that program now ceased?

**Mr McIlwain**—The pilot program has ended. We judge it to have been successful and we see it as being an effective model to promote workplace agreements in all industry sectors in the future. We intend to place secondees with industry associations in a range of industry sectors on an annual basis.

**Senator MARSHALL**—What plans do you have right now for that?

**Mr McIlwain**—At this stage we have not identified specific industries, but it is certainly our intention this calendar year to maybe in three or four industry sectors use that same approach.

**Senator MARSHALL**—Do you have any industry sectors in mind at the moment?

**Mr McIlwain**—We have had approaches from a number of industry associations. However, we have not yet had discussions with any of those. We will need to go through a process of meeting with industry representatives, looking ourselves at areas of need.

**Senator MARSHALL**—Can you tell me from which industries the interest has come?

**Mr McIlwain**—From the hotels industry, the housing industry and the aged care industry.

**Senator MARSHALL**—Could you tell me what is the basis of the employment of the workplace advisers? Is it permanent, full time, part time, ongoing casual?

**Mr McIlwain**—For the most part they are all ongoing. Some would be part time. Most are full time.

**Senator MARSHALL**—How many legal officers do you currently employ?

**Mr McIlwain**—As at 26 January, 11, with three in Melbourne and eight in Sydney.

**Senator MARSHALL**—Do they all report to Mr Rushton?

**Mr McIlwain**—They do.

**Senator MARSHALL**—What is the status of their employment?

**Mr McIlwain**—They are ongoing full time.

**Senator MARSHALL**—They are not on contract?

**Mr McIlwain**—No.

**Senator MARSHALL**—Can you tell me how many staff are employed in the telephone advisory service?

**Mr McIlwain**—I believe it to be six.

**Senator MARSHALL**—What is the status of their employment?

**Mr McIlwain**—They are ongoing employees under the Public Service Act. Some of them—a couple of them—are part-time staff.

**Senator MARSHALL**—In those three areas that we have talked about, are you looking to employ more staff in any of those areas or all of them; and, if so, how many?

**Mr McIlwain**—In our client services area, which you have described correctly as workplace relations advisers, we are intending to increase the numbers there by 37 this current financial year. In the legal unit, this current financial year the increase will be 20. This is a headcount, not an FTE figure. In the area that will have responsibility for both the lodgement system and for the operation of a contact centre, we expect an increase of 12 employees by the end of the financial year.

**Senator MARSHALL**—Further to your response to question on notice W573, can you tell me what performance indicators the OEA uses to measure the effectiveness of its activities to publicise its complaints facility?

**Mr McIlwain**—You are asking what performance indicators we have to gauge the effectiveness of the publicity that we give to our complaints handling procedure? We have no direct performance indicator to gauge the effectiveness of the publicity we give to the complaints procedure.

**Senator MARSHALL**—Again, further to your response to question W534, in light of the legislated need for parental consent to an AWA for those under the age of 18, do you have any plans to begin recording the age of complainants?

**Mr McIlwain**—Under the reformed legislation, the OEA will not have responsibility for compliance and enforcement; that will be the responsibility of another business unit of the DEWR portfolio.

**Senator MARSHALL**—Do you have a complaints facility at all?

**Mr McIlwain**—Perhaps to make a distinction here, we have facilities and systems to handle two types of complaints. One handles complaints about the OEA's own processes or the conduct of OEA officers. The regime for that is largely the Public Service Act, the APS Code of Conduct and the OEA's guiding principles. The second system we have for handling complaints handles complaints under the Workplace Relations Act, for example to do with alleged breaches of the process for making AWAs or alleged breaches of approved AWAs. The first system, naturally, we will maintain when we take on our new responsibilities. The second system, given the amendments to the act, we will not maintain, because responsibility for dealing with complaints about agreement making, handling compliance and enforcement matters relating to agreements will be the responsibility of the Office of Workplace Services. We will not be recording the age of complainants making complaints with regard to workplace agreements, because they will not be our responsibility.

**Senator MARSHALL**—I refer you to your response to W574. Is the QUT three-year study into the relationship between human resource and business strategies complete?

**Mr McIlwain**—It is drawing close to completion.

**Senator MARSHALL**—Is it still correct to describe it as a three-year study?

**Mr McIlwain**—It is no longer a three-year longitudinal study. By agreement between the parties, it has been decided to end the study after one year or so. It will be drawn to a conclusion in the near future.

**Senator MARSHALL**—Can you be more specific than that? Are you looking at weeks or months away, or before the next round of estimates?

**Mr McIlwain**—Weeks away.

**Senator MARSHALL**—When that is available, can you provide a copy of that to the committee?

**Mr McIlwain**—Yes, I believe so.

**Senator MARSHALL**—Question W532 asked how many requests had been made in relation to revisiting the approval process for AWAs. You answered that there had been 16 requests. I would ask you to take this on notice. Can you provide or explain the circumstances for each, identify what was the problem, indicate whether it was rectified or not and can you provide an updated figure for the period of November and February?

**Mr McIlwain**—We will take that on notice.

**Senator MARSHALL**—In respect of your answer to question on notice W543, can you tell me whether that case has been finalised?

**Mr McIlwain**—There are two cases there. Was it the Ramsey case or the T&R case?

**Senator MARSHALL**—Both, sorry. There are two.

**Mr McIlwain**—Both of those are still on foot.

**Senator MARSHALL**—Do we know how far away from conclusion they are?

**Mr Rushton**—Yes. In the Ramsey matter there was a hearing in I think November last year, and the matter was part-heard. The respondents made an application of a no case to answer. The judge, after hearing our evidence in that matter, reserved his decision on that no case to answer and we have not heard back from the judge as yet on that.

**Senator MARSHALL**—Can you update the committee on the costs of both of those cases to date?

**Mr McIlwain**—We will take that on notice.

**Mr Rushton**—Just to cover the other matter, T&R, that matter is in the early stages. It is on for directions on I think 6 March. There is not a hearing date as yet for that.

**Senator MARSHALL**—In relation to your response to W544, can you again take this on notice and provide an update for all the consultants engaged or contracted since the previous round of estimates?

**Mr McIlwain**—Certainly.

**Senator MARSHALL**—And identify them in terms of the previous question, if you could.

**Mr McIlwain**—Yes.

**Senator MARSHALL**—In respect of question on notice 548, can you please explain whether the answer means that the 35 staff will be full time or not, and does your answer mean that staffing rises from 11.4 full-time staff or is it actually down from 69 OEA staff? You have provided two answers to different questions and I cannot quite work out what you mean by this middle one. The other questions were 547 and—

**Mr McIlwain**—Yes, I understand.

**Senator MARSHALL**—Do you need to take that on notice? If you have the answer now, that is fine.

**Mr McIlwain**—With regard to 548, these staff will be full time. In respect of question 547, 69 staff currently work on promotion activities, but at the moment five work full time and the remaining 64 spend 10 per cent of their time. That is in fact the difference. In the future it will have 35 full-time equivalent rather than 11.4 full-time equivalent.

**Senator MARSHALL**—In respect of your answer to W550 and also in respect of an answer you gave to an earlier question, now that WorkChoices has been passed, can you outline your planned restructure or detail any restructure that has already taken place within your office?

**Mr McIlwain**—We will in the next few weeks be in a position to provide that information in detail. We are currently drawing to a conclusion a work and job redesign project throughout the OEA to take account of our new responsibilities under WorkChoices. I will provide within the time frame set by the committee as much detail as I can.

**Senator MARSHALL**—Will that have an organisational chart with levels of responsibility and staff attached?

**Mr McIlwain**—Yes.

**Senator MARSHALL**—Will you be able to provide that?

**Mr McIlwain**—Yes.

**Senator MARSHALL**—Further to your answer to question W553, are you able to update those tables as per question W553 and its answer when new data becomes available in March?

**Mr McIlwain**—We would be able to update them when the next ABS EEH, employee earnings and hours survey, becomes available.

**Senator MARSHALL**—It becomes available in March, though, doesn't it?

**Mr McIlwain**—The next will be March 2007. The survey was—

**Senator MARSHALL**—I was not thinking of that March, actually. Is there not going to be another round of data until—

**Mr McIlwain**—The survey is done on a biennial basis. In fact, I see that the final results from the survey became available in March 2005. The survey is conducted by ABS every two years and there is in fact a nine-month or 10-month lag between the survey being conducted and the report being published. The last survey was conducted in May 2004 and the report was published in March 2005. The analysis before you in response to 553 is drawn from the survey report that was released in March 2005. ABS will conduct the next survey in May 2006, but the results of that survey will not be available until March 2007.

**Senator MARSHALL**—You are going to have to do some other surveys; you will need to update that information for your own needs prior to then, will you not? Sorry, that was not really a very specific question. I am just wondering whether you plan to do any surveys to ascertain similar information yourself?

**Mr McIlwain**—There are no plans at the moment for us to conduct a survey of similar scope to the ABS EEH survey.

**Senator MARSHALL**—We will not be able to be provided with any trend information to make a comparison between those three categories for another 15 or 16 months.

**Mr McIlwain**—That has been the situation for the last several years. Both industry and other interested parties rely on the ABS EEH survey, which of course provides the capacity for longitudinal comparison.

**Senator MARSHALL**—That is something we will think about. In respect of your answer to W556, will you be able to update the data provided in this answer to take account of what has occurred since the previous estimates round?

**Mr McIlwain**—Yes. This is data that we collect entirely ourselves. We are able to update that. We will update it to be the most recent time period that we are able to. I have some information with me that is a bit more current with regard to young employees.

**Senator MARSHALL**—Can you table that? It is probably too long to read out.

**Mr McIlwain**—Yes, there is a table that we are able to table.

**Senator WONG**—I do not we have any further questions for the OEA. We will put the rest on notice.

**CHAIR**—Thank you. We will put the rest of the questions on notice. Thank you for your attendance.

As we are quite close to the evening break, we will take that now, because the next group that we will be dealing with is cross-portfolio questions.

**Proceedings suspended from 8.51 pm to 9.08 pm**

**CHAIR**—We move now to cross-portfolio issues.

**Senator WONG**—Can I ask first, Dr Boxall, in relation to which outcome the Award Review Task Force is?

**Dr Boxall**—That is in outcome 2.

**Senator WONG**—I want to ask about the additional appropriation sought by the department and the various things in table 1.2 of the additional estimates statement.

**Dr Boxall**—Madam Chair, can I ask whether there are likely to be any cross-portfolio questions. There are some people from Corporate who could go home.

**CHAIR**—I understand, Dr Boxall. I will seek guidance on that.

**Senator WONG**—Sorry, I thought this was something that should be dealt with in cross-portfolio. There will be some questions in relation to staffing, which I presume is Corporate, and obviously I have some questions about the questions on notice.

**CHAIR**—Can I assume that we will have the cross-portfolio questions as such—the ones you have just outlined—done by, say, 10 o'clock?

**Senator WONG**—Yes.

**CHAIR**—So that gives us some guidance.

**Dr Boxall**—Thank you.

**Senator WONG**—There was \$415 million announced in the context of the Work Choices legislation—is that right?

**Mr Pratt**—The total amount was \$458.9 million over four years.

**Senator WONG**—Is this additional appropriation part of that, or is it additional to that?

**Mr Pratt**—Of the figures on page 16 of our additional estimates statement, table 1.2, the majority relates to the \$458.9 million.

**Senator WONG**—Where is the rest of it—not in this portfolio or not yet appropriated?

**Mr Pratt**—Largely it is this portfolio. There are a number of areas which I could take you to. If we go to page 13—

**Senator WONG**—Could I just clarify what you are doing now, Mr Pratt.

**Mr Pratt**—I am attempting to explain how what is on page 16 plus in other parts of our additional estimates statements relate to the \$458 million.

**Senator WONG**—That would be useful; thank you.

**Mr Pratt**—Essentially, on page 16, with the exception of the first line in table 1.2, which relates to extra funding we got for extended eligibility for GEERS—

**Senator WONG**—I am actually interested in the departmental appropriations, not the administered items.

**Mr Pratt**—That \$458 million includes funding for departmental, administered and capital. In the order of \$370 million on page 16 is the departmental appropriation for Work Choices matters.

**Senator WONG**—And the remaining approximately \$80 million is in other departments?

**Mr Pratt**—There is some for other departments, which is in addition to the \$458 million. I will come to that. But, in terms of building up to that \$458 million, you do need to add in the administered funding, which is in the first part of table 1.2 and also, if you turn to page 13, you will find that we have departmental equity injections. Those figures there add into that \$458 million. In addition to that, there is funding for the Industrial Relations Commission, which from memory is on pages 83 and 94 in the document. Page 94 has the equity and capital funding injection for the Industrial Relations Commission, and page 83 covers their general expenses. Finally, in addition to that \$458.9 million, there is another \$28.8 million which is allocated to the Attorney-General's Department in relation to the workload which will impact on the Federal Court and the Federal Magistrates Court.

**Senator WONG**—And the High Court, presumably.

**Mr Pratt**—I do not think we have costed that.

**Senator WONG**—But states have already flagged that, Mr Pratt. I thought you would have costed that.

**Mr Pratt**—Not in that sense, but you are correct—there will obviously be costs there.

**Senator WONG**—So essentially am I correct in saying that all the additional appropriations in table 1.2, both administered and departmental, are included in the \$458 million Work Choices package?

**Mr Pratt**—Correct, with the exception of that first line.

**Senator WONG**—With the exception of GEERS. I want to ask some questions about that. I go first to the equity injections. What is the equity injection of \$35.834 million intended to be for?

**Mr Pratt**—That is for two things. It is essentially for fit-out for accommodation for the various new leases that we will require for the Fair Pay Commission, the expanded Office of Workplace Services and the additional staff for the call centres, our Wageline and so forth. Also, it is funding which goes into capital for IT infrastructure development.

**Senator WONG**—Can you explain to me whether that \$35.8 million is for the current financial year only?

**Mr Pratt**—That is correct.

**Senator WONG**—What are you doing with it—purchasing premises, leasing premises, fitting them out?

**Mr Pratt**—Primarily it is for fit out and development of IT.

**Senator WONG**—So how many offices does this comprise?

**Mr Pratt**—From memory it is around 26 offices which are affected in one sense or another—where we either get a new office or expand the office. Much of that relates to the substantial expansion of the Office of Workplace Services around Australia.

**Senator WONG**—How much of that \$35 million relates to the Fair Pay Commission?

**Mr Pratt**—It is the next one—the \$2.54 million.

**Senator WONG**—So that \$2.54 million is for the 26 offices fit out et cetera.

**Mr Pratt**—No, that is the capital associated with the office for the Fair Pay Commission and, I think, also its IT development. The \$35.834 million covers of a range of other things, including the Office of Workplace Services.

**Senator WONG**—What I am interested in, in relation to the \$35 million, is how much of that relates to fit out et cetera of the Fair Pay Commission and how much relates to the Office of Workplace Services.

**Mr Pratt**—None of the \$35.84 million actually relates to fit out for the Fair Pay Commission.

**Senator WONG**—Are you able to give me a breakdown of the \$35.8 million? Would that be a quicker way of doing this?

**Mr Pratt**—I will attempt to. In 2005-06, IT infrastructure and software is \$6.687 million and office fit out and security is \$29.146 million. I will just check whether we have any details on the offices and that sort of thing. In relation to the Office of Workplace Services, that capital investment in terms of fit out includes, Sydney, Newcastle, Wagga Wagga, Coffs Harbour, Orange and Canberra; in Victoria, Melbourne, Bendigo, Traralgon, Warrnambool; in Queensland, Brisbane, Rockhampton, Townsville, Toowoomba, the Gold Coast, Cairns; in South Australia, Adelaide, Port Augusta—am I going too quickly or slowly?

**Senator WONG**—I do not think I can write this all down but it is on *Hansard*. Port Augusta and where?

**Mr Pratt**—Mount Gambier. In WA, Perth, Bunbury, Broome, Kalgoorlie; in Tasmania, Hobart, Launceston; and in the Northern Territory, Darwin and Alice Springs. I will just confirm with my colleagues whether there are also some fit outs for call centres in locations additional to those. There are locations in Perth, Sydney and Melbourne. The fit out for the Fair Pay Commission is solely in Melbourne.

**Senator WONG**—So the \$29.14 million relates to office fit out and equipment. How much of the \$29.4 million is for the Fair Pay Commission?

**Mr Pratt**—None.

**Senator WONG**—I am very confused now.

**Dr Boxall**—Senator Wong, it is on page 13.

**Senator WONG**—Is any aspect of the \$35.834 million related to the fit out of the Fair Pay Commission?

**Mr Pratt**—No.

**Senator WONG**—So the \$2.544 relates to the 26 Fair Pay offices and other matters.



**Dr Boxall**—No. The \$2.544 million, which is the second dot point in the middle of page 13, is just for the Fair Pay Commission. That is for the office of the Fair Pay Commission in Melbourne. The top dot point, the \$35.834 million, is for the Office of Workplace Services and is for all the offices that Mr Pratt just read out.

**Senator WONG**—Is the \$2.544 million for the Fair Pay Commission being spent on fit out or not?

**Mr Pratt**—Yes. I will break that up for you. In 2005-06, \$419,000 of that is for IT infrastructure and software and \$2.16 million is for office fit-out and security. That is, of course, a one-off capital expense in 2005-06.

**Senator WONG**—The security being for security systems, alarm systems et cetera; not monitoring?

**Mr Pratt**—That is right.

**Senator WONG**—It is not a recurrent expense.

**Mr Pratt**—That is right. It is the general requirements for our offices.

**Senator WONG**—There are current offices for the Office of Workplace Services already in existence—for example, in capital cities—correct?

**Mr Pratt**—The Office of Workplace Services is currently located in Sydney, Melbourne and the Northern Territory.

**Senator WONG**—Are there additional renovations on those offices or is this \$29.14 all in relation to new premises?

**Mr Pratt**—No. They include expansion of the existing offices or transfers into other locations in some cases.

**Senator WONG**—Which ones are involved in transferring? How many offices will be transferred?

**Mr Pratt**—We will have to take that on notice.

**Senator WONG**—If you tell me how many are transferred I will be able to work out how many are new.

**Mr Pratt**—We will split that for you.

**Senator WONG**—Going back to table 1.2 on page 13, what is the \$457,000 for advice and education concerning termination of employment?

**Mr Pratt**—I am sorry; the \$457,000 or the—

**Senator WONG**—On page 13.

**Mr Pratt**—I am advised that it is for IT.

**Senator WONG**—For what?

**Mr Pratt**—For the service that will be provided for providing advice and education.

**Senator WONG**—What is that service?

**Mr Pratt**—If you give me a second, I will give you the details. It is for the departmental systems which will support the contract management of the service we will provide under the termination of employment education program for employers.

**Senator WONG**—For employers?

**Mr Pratt**—Yes, that is right.

**Senator WONG**—So it is actually advice and education concerning termination of employment for employers?

**Mr Pratt**—In fact, I will get someone who is a little bit more expert on this to come up and confirm that.

**Senator WONG**—I was not intending to explore it much more unless you have something fantastic to tell me.

**Mr Kovacic**—In terms of one of the measures that is part of the WorkChoices measures, there is the unlawful termination assistance scheme, which comprises two components, one of which is the financial assistance for employees who believe that they may have been unlawfully terminated. The other component is an education program directed at employers to ensure that they are aware of their obligations but also adopt, for want of a better description, good practice in terms of the management of their people with a view to, I suppose, minimising the extent to which unlawful terminations occur.

**Senator WONG**—But the equity injection relates to the second aspect.

**Mr Kovacic**—It does.

**Senator WONG**—Can I now go back to page 16. Can you explain the expenditure of \$7.3 million on information and education for 2005-06?

**Mr Pratt**—That was the expenditure with respect to the call centres associated with the advertising campaign for WorkChoices last year and the printing and distribution of information products and the mail house for distributing that.

**Senator WONG**—Can you on notice provide a breakdown of that, please?

**Mr Kovacic**—I can provide that now, if you wish.

**Senator WONG**—I am really short of time and I would appreciate it if you could provide it on notice. Can you tell me what the communications campaign comprises?

**Mr Pratt**—That was the advertising campaign last year.

**Senator WONG**—Was that media buy only?

**Mr Kovacic**—There were also three associated consultancies: public relations, market research and creative advertising.

**Senator WONG**—Can you tell me what each of those cost?

**Mr Kovacic**—Yes. In terms of the research consultancy, the estimated actual cost is \$1.829 million. In terms of the public relations consultancy, the estimated actual cost is \$400,000. In terms of the advertising and creative consultancy, the estimated cost is \$2.965 million.

**Senator WONG**—What is the cost of the media buy of which that comprises?

**Mr Kovacic**—There are two components. There were some radio and print ads that were run in July 2005—

**Senator WONG**—Yes, we saw them.

**Mr Kovacic**—that total \$2.75 million. In terms of the media buy for the advertising campaign that occurred in October of last year, that is \$30.902 million.

**Senator WONG**—What does the \$7.3 million for targeted education activities involve?

**Mr Pratt**—Those are prospective costs in relation to information products, seminars, changes to our website and an employer advisory program pilot—all of which will take place from the implementation of the WorkChoices legislation sometime in March this year and they will extend across the rest of this financial year. These education activities are about advising employers and employees about the flexibilities and the opportunities available under WorkChoices—the rights and obligations and those things.

**Senator WONG**—Can you provide a breakdown of that costing, please.

**Mr Pratt**—Yes, we will take that on notice.

**Senator WONG**—Can you tell me what education activities will be targeting employees as opposed to employers?

**Mr Pratt**—Yes. In general terms, it will be most of the things which I have mentioned. We will conduct seminars for both employers and employees. We will expect that employers will also provide the information that we give them to their employees. We have our call centres and our websites. There will be things like electronic magazines. We will use a range of information products.

**Senator WONG**—Who is going to get the electronic magazines?

**Mr Pratt**—People who wish to subscribe to them.

**Senator WONG**—How much will they cost?

**Mr Pratt**—Nothing.

**Senator WONG**—So you just subscribe?

**Mr Pratt**—That is right.

**Senator WONG**—Are they currently in place?

**Mr Pratt**—Not yet.

**Senator WONG**—Can I go now to legal costs. I propose to ask it here, Dr Boxall, because I can never work out which output it might relate to. What legal costs have been incurred by DEWR in the current financial year to date in relation to the intervention in the national wage case 2006 in the AIRC and the state wage cases?

**Dr Boxall**—That is outcome 2.

**Mr Smythe**—Could you repeat the question, please.

**Senator WONG**—What are the legal costs that have been incurred by the department in the current financial year in relation to the intervention into the 2006 national wage case and each of the state wage cases?

**Mr Smythe**—There have been no bills rendered in respect of the state wage interventions at this stage, so even if I took it on notice I could not give you a figure for those. In respect of the national wage case, I will take that on notice.

**Senator WONG**—Do you have an anticipated cost for the intervention in each of those cases?

**Mr Smythe**—No, not in the state wage cases.

**Senator WONG**—Is intervention proposed?

**Mr Smythe**—I cannot answer that question

**Mr Kovacic**—The Commonwealth has sought leave to intervene in those state wage cases that have commenced. In most of those instances, the relevant state industrial commission has reserved a decision as to whether that can occur.

**Senator WONG**—So who appeared for the government in that?

**Mr Kovacic**—I know we engaged counsel, but I would have to take the specific details on notice.

**Senator WONG**—Okay. Mr Smythe, I am a bit confused then as to your answer. I thought you said there were no costs incurred in relation to that.

**Mr Smythe**—No, I said we had not received any bills yet in relation to that.

**Senator WONG**—So no bills as yet?

**Mr Smythe**—That is right.

**Senator WONG**—Do you have a budget for each of those interventions or for interventions generally in the state wage cases?

**Mr Kovacic**—No.

**Senator WONG**—I am glad that Dr Boxall told you that!

**Dr Boxall**—That is the answer from the department, Senator; it is not my answer.

**Senator WONG**—So is it open ended?

**Dr Boxall**—No.

**Senator WONG**—Well, there is no budget; how can it not be open ended?

**Dr Boxall**—We have had this discussion at just about every Senate estimates, Madam Chair.

**Senator WONG**—At least I am predictable.

**Dr Boxall**—Because under workplace relations policy, which is on page 40 at output—

**Senator WONG**—Actually, Dr Boxall, can I just interrupt. I am not asking if there is an allocated budget; I am asking if there is an internal cost ceiling.

**Dr Boxall**—The answer, Senator Wong, is that we do not break down the costs in this. We have an appropriation allocated, which is the price of output 2.1.1, and the costs about which you are inquiring are included in that output. I think the price is \$92.64 million.

**Senator WONG**—Is there any cost ceiling on the costs that the Commonwealth is prepared to incur in relation to each and all of these interventions?

**Dr Boxall**—The department will take the necessary action to achieve the delivery of output 2.1.1, and part of that action is the intervention in these cases.

**Senator WONG**—So is there a cost ceiling or not?

**Dr Boxall**—No, there is no cost ceiling and there does not need to be. We will make a judgment about what is required to fund the department's intervention in order to achieve the delivery of output 2.1.1, for which we have been appropriated \$92.64 million by parliament.

**Senator WONG**—What is the department's involvement in the High Court challenge?

**Mr Smythe**—The Commonwealth is a respondent to that and obviously the department is involved in preparing the defence to the High Court challenge.

**Senator WONG**—Are any legal costs associated with that going to be attributed to the department?

**Mr Smythe**—I do not know.

**Senator WONG**—Has the department instructed—

**Mr Smythe**—Sorry. The Attorney-General has carriage of that matter, so I would imagine that the legal costs of counsel would be attributed to the Attorney-General's department.

**Senator WONG**—I turn now to the issue contained in question on notice W185\_06. You provided a summary of the exit survey of staff who left the department for the period from 1 April 2004 to 31 March 2005. Could you please provide a copy of the updated summary, broken down into staff who left the department in 2005?

**Mr O'Sullivan**—I will have to take that on notice.

**Senator WONG**—That is fine. Are you also able to table a copy of the exit survey questionnaire?

**Mr O'Sullivan**—I will have to take that on notice too.

**Senator WONG**—You do not have that?

**Mr O'Sullivan**—I do not have it, no.

**Senator WONG**—Can you tell me what proportion of DEWR staff are currently employed under an AWA, what proportion are employed under an award and what proportion are employed under other arrangements?

**Mr O'Sullivan**—I think I can assist you if you will just bear with me for a moment. The figures I have are as of 25 January 2006. I think you asked how many DEWR staff are employed, firstly, on an AWA; was that right?

**Senator WONG**—Yes, in each of those categories.

**Mr O'Sullivan**—The answer, as of that date, is that 2,432 staff were employed under an AWA and 965 staff were employed under the CA. I think that is it.

**Senator WONG**—Were there any other arrangements? Presumably, SES staff—

**Mr O'Sullivan**—They are engaged under—

**Senator WONG**—All of them in DEWR are on AWAs?

**Mr O'Sullivan**—Yes.

**Senator WONG**—And nobody is award reliant?

**Mr O'Sullivan**—No.

**Senator WONG**—In question W187\_06, you tabled a copy of the internal DEWR AWA handbook. Has there been any update to that since the tabling of that question?

**Mr O'Sullivan**—No, there has been no update since then.

**Senator WONG**—Can you provide us with a copy of some documentation which is referred to in that handbook—the template AWAs? You will probably need to take this on notice.

**Mr O'Sullivan**—Yes.

**Senator WONG**—But tell me if there is a problem with it. Can you provide information on the performance agreement scheme—is that what PAS is?

**Mr O'Sullivan**—Yes, that is right.

**Senator WONG**—I think that is available on your intranet, and the AWA temporary performance loading guide. Do you have any other documentation or guides relating to the PAS?

**Mr O'Sullivan**—I will take that on notice so that I can completely and comprehensively answer your question.

**Senator WONG**—If you can give me the information that is available on the intranet and any other relevant documentation, such as guides, policies or guidelines.

**Mr O'Sullivan**—I have taken that on notice.

**Senator WONG**—I presume that is because you do not have it with you.

**Mr O'Sullivan**—That is right.

**Senator WONG**—Can you tell me what the BIS online is?

**Mr O'Sullivan**—Business information systems is an acronym.

**Senator WONG**—I realised it is an acronym, that is why I am asking what it is!

**Mr O'Sullivan**—It is the department's software that we use to process pay, leave applications and those kinds of things.

**Senator WONG**—And RSC submission?

**Mr O'Sullivan**—That is a submission to the remuneration subcommittee.

**Senator WONG**—And TPL?

**Mr O'Sullivan**—That is temporary performance loading.

**Senator WONG**—You should produce your own dictionary!

**Mr O'Sullivan**—I am amazed I have got three out of three!

**Senator WONG**—When you are providing me with the information on the AWAs, are you able to indicate what proportion varies from the template agreements?

**Mr O’Sullivan**—I will have to take that on notice.

**Senator WONG**—Do you track that data?

**Mr O’Sullivan**—I do not know the answer.

**Senator WONG**—Does someone in the department know whether or not you track it? If you do not track it, then it will not be necessary. Do you track whether an AWA is in template form or whether it has been altered?

**Mr O’Sullivan**—We do not track it.

**Senator WONG**—So you do not have data on the extent to which there are non-wage variations of any standard AWAs?

**Mr O’Sullivan**—We do not have data on that, no.

**Senator WONG**—Do any AWAs simply mirror the DEWR collective agreement?

**Dr Boxall**—No.

**Senator WONG**—As a matter of policy, would you agree to an AWA that simply mirrored the current collective agreement?

**Dr Boxall**—As a matter of policy, any staff member can put up for negotiation anything they like, including mirroring the certified agreement. Whether or not the remuneration subcommittee would approve it would depend on the submission.

**Senator WONG**—Would DEWR agree to an AWA that simply stated, for example, that the terms and conditions would mirror the relevant applicable collective agreement?

**Dr Boxall**—That is hypothetical. For staff members in DEWR, AWAs are all individually based, so a staff member can propose a wage level, a maximum performance bonus and various other clauses, and the remuneration subcommittee decides whether we are going to accept that. If a staff member were to come along and say, ‘I would like to have an AWA that exactly mirrors the certified agreement,’ we would consider that on its merits.

**Senator WONG**—Okay. Therefore, if a staff member said, ‘I want an AWA that simply says my terms and conditions of employment mirror those in the applicable certified agreement,’ as a matter of policy is that something that you would refuse or something you could negotiate on?

**Dr Boxall**—As a matter of policy, we do not bar staff members from bringing any proposal to the table, including that one.

**Senator WONG**—I am asking about your position, Dr Boxall. What is your policy?

**Dr Boxall**—I am telling you. I have just told you—

**Senator WONG**—No. You are telling us what you would allow them to bring to the table. I am asking what your position would be.

**Dr Boxall**—Madam Chair, I am trying to answer the question. The question is: is there a policy which bars a staff member from proposing to negotiate a—

**Senator WONG**—That is not the question.

**Dr Boxall**—Well, would you repeat the question?

**Senator WONG**—What is DEWR's attitude to a staff member wanting that kind of AWA? Would DEWR say, 'As a matter of policy, we will not engage in an AWA which simply refers to the CA'?

**Dr Boxall**—No. I was just explaining, Senator Wong: as a matter of policy, we never say to a staff member, 'You cannot negotiate anything,' including, if they want, an AWA that mirrors the certified agreement. There are no restrictions on what they can attempt to negotiate.

**Senator WONG**—So have you or any of your corporate group given any indication to any employees that such an AWA would be unacceptable?

**Dr Boxall**—No.

**Senator WONG**—Have you given any indication that such an AWA would be acceptable?

**Dr Boxall**—No, we have given no indication that an AWA is not acceptable, and the only guideline that was put out for the negotiation of AWAs—which is a guide—is the issue of 20 per cent performance pay, and that was a guide that was put out very early on. But that does not mean to say that a staff member cannot bring to the negotiating table a performance bonus of 25 or 30 per cent, or 10 or 15 per cent. So there has been no need to put out a statement by Corporate or anybody else saying that we would be prepared to negotiate an AWA which mirrors the certified agreement, because the reverse holds. We do not put up lists of what we would accept. The policy is that any staff member can put up anything they like for negotiation of an AWA.

**Senator WONG**—Yes, they can put it up, but you can just say no. I am asking what your position is.

**CHAIR**—Senator, I think Dr Boxall indicated earlier that the remuneration committee, or whatever your term is, would consider it. I think those are the words you used, Dr Boxall?

**Dr Boxall**—Correct, Madam Chair.

**CHAIR**—And I would have thought that that would have answered the question.

**Senator WONG**—I do not think it answers the question at all, Madam Chair. In question on notice response W591\_06, we asked if the department could provide details of the various negotiated monthly rates for each firm on the panel of legal service providers engaged to assist DEWR with the development of the work choices legislation. Mr Smythe, is this you? Dr Boxall wants your attention, Mr Smythe.

**Dr Boxall**—What number question was it, Senator Wong?

**Senator WONG**—I have it, thanks to my colleague—W591\_06. We asked about the panel of legal service providers who were engaged to assist the department with the development of the workplace relations legislation. We were advised that there was no engagement on an hourly charge-out rate but that secondees were provided on the basis of a negotiated monthly rate. I am asking if you can provide us with details as to the negotiated monthly rate in relation to all secondees.



**Mr Smythe**—I will take that question on notice.

**Senator WONG**—Can I ask why, Mr Smythe?

**Mr Smythe**—To consider whether it is appropriate to provide that information, given that there are commercial aspects to the negotiated rate.

**Senator WONG**—This is public money that is being spent on this.

**Mr Smythe**—Correct, but there is also the tension as to whether to publicly disclose negotiated rates which may differ is appropriate. I am not saying that we will not; I am just saying I need time to consider it.

**Senator WONG**—Okay. I invite you to have a look at some of the Senate procedures and privileges resolutions in relation to the commercial-in-confidence claim which you are making.

**Mr Smythe**—I will do so.

**Senator WONG**—I have a number of questions in response to questions on notice. First, although you were not as bad as some of the departments I have been questioning, Dr Boxall, there are five questions on notice still outstanding and, perhaps more importantly, there were quite a number that were after the due date. I am particularly interested at this stage in W514\_06 in relation to IT contracts. I want to ask some questions about the attachment. There is a fairly large amount of money for the 2004-05 year in relation to IT contracts, the vast majority of which went to restricted tender. Was there a policy decision made in the department that restricted rather than open tender would be the preferred process?

**Mr Burston**—The ‘restricted tender’ caption there refers to the fact that these contracts, which are for IT personnel, operate in such a way that we have a preregistration panel and then the process to select people off the panel is done from a small group of suppliers. Perhaps that caption—

**Senator WONG**—That makes sense.

**Mr Burston**—That is what it is trying to capture.

**Senator WONG**—And the direct selection of IBM for the largest contracts—\$10.7 million—

**Mr Burston**—That is a consequence of the fact that, in respect of mainframe hardware and associated software, in recent years the competitors to IBM have dropped out of that market and IBM is the sole supplier.

**Senator WONG**—In relation to these expenses, which of those, if any, relate to Job Network information systems?

**Mr Burston**—I would have to take that on notice.

**Senator WONG**—You cannot tell me that?

**Mr Burston**—These are generalised providers. Many of them could be engaged for various aspects of work across the department. With the scale of what we are doing, we obviously spread the requirements across as broad a base as possible, so there is no easy one-

to-one relationship between any of these suppliers and a particular activity in the department that we could determine without going into the detail.

**Senator WONG**—What about the \$10.7 million?

**Mr Burston**—For IBM?

**Senator WONG**—Yes.

**Mr Burston**—The first part of my answer there was in relation to the personnel. The mainframe hardware and associated software now is used solely for outcomes 1 and 3. The Job Network technology is by far the largest user.

**Senator WONG**—Would it be correct to say that the majority of that—is it \$10.7 million?—

**Mr Burston**—Yes.

**Senator WONG**—for that financial year relates to outcomes 1 and 3?

**Mr Burston**—Yes.

**Senator WONG**—Would it be correct to say that the majority would relate to the Job Network?

**Mr Burston**—Yes, it does.

**Senator WONG**—Are you able to provide me with what proportion does?

**Mr Burston**—It is difficult in the split between outcomes 1 and 3, given the interrelated nature of much of the processing. When we inherited what is now outcome 3, I think about 10 months ago, we took on a lot of processing simply by expanding some of the systems which currently support outcome 1. It is not easy to get that split, but we will see what we can do.

**Senator WONG**—Thank you very much. I think I have finished the cross-portfolio questions.

[9.51 pm]

**CHAIR**—We will now move to outcome 2, Higher productivity, higher pay workplaces.

**Senator McEWEN**—I would like to ask a couple of questions about the costs of advice and education on unlawful termination for employees. \$27.6 million over four years has been budgeted for unlawful termination advice. I think a portion of that is for IT support as well. I wonder whether you can let us know what proportion has been set aside for the \$4,000 per individual for legal assistance and advice, which was promised by the Prime Minister.

**Mr Pratt**—I will correct myself if I am wrong, or someone else will, but I think it is \$21.4 million.

**Senator McEWEN**—\$21.4 million of the \$27.6 million?

**Mr Pratt**—Yes.

**Senator McEWEN**—How many requests for legal assistance under that scheme has the department budgeted for for the four-year period?

**Mr Pratt**—A total over the four years of 5,155.

**Senator McEWEN**—So you anticipate that there will be that number of unlawful terminations arising from the government's legislation?

**Mr Pratt**—That is the estimate that we have made in order to develop the funding, yes.

**Senator McEWEN**—How did you arrive at that figure?

**Mr Kovacic**—In considering this issue, we obviously looked at the number of unlawful termination applications that have occurred in recent years in the federal jurisdiction. We have also looked at the number of unlawful dismissal cases that have occurred both in the federal and state jurisdictions, and made some assumptions about how many existing applications that may have been capable of being pursued as unlawful termination applications may have in the past been pursued as unlawful dismissal applications. Those two factors have primarily been the basis on which we ended up with those estimates.

**Senator McEWEN**—What will you do if there are more than 5,155 requests for funding to assist with unlawful termination advice in that budget period?

**Mr Kovacic**—We would pursue additional funding through the budget process. I should add that that number of 5,155 is over the four years.

**Senator McEWEN**—Yes, I understand that.

**Senator WONG**—Is it broken up into equal parts?

**Mr Kovacic**—It is 675 in 2005-06, 1,555 in 2006-07, 1,493 in 2007-08 and 1,433 in 2008-09.

**Senator McEWEN**—Why is there the jump from 675 to 1,555 between 2005-06 and 2006-07?

**Mr Kovacic**—That reflects the fact that the Work Choices system will not commence until later this year.

**Senator McEWEN**—Further to question on notice response W587, can the department provide an update on what steps it is taking to measure the number of unlawful and unfair dismissal cases each year?

**Dr Boxall**—You would like us to update for the period to 31 December 2005?

**Senator McEWEN**—Yes. You have given us to 30 June 2005 in that answer. What we want to know is subsequent statistics. Can you also confirm that you are going to continue to collect those statistics in the same way?

**Mr Pratt**—We will take that on notice and see if we can update them. It may be that these figures are only available on a financial year basis, in which case we will not be able to do so until the end of June.

**Senator McEWEN**—I have a question about Work Choices legislation and public holidays. According to section 116(1)(e) of the Work Choices act, the definition of a public holiday includes:

... observance of days declared by or under a law of a State or Territory to be observed generally within that State or Territory, or a region of that State or Territory, as public holidays by employees who work in that State, Territory or region, and entitlements of employees to payment in respect of those days ...

Does that definition include entitlements for half- or part-days?

**Mr Bohn**—Coming to the table, I only caught the tail end of that question. I am sorry to do this to you, but would you mind repeating that?

**Senator McEWEN**—It is section 116. It talks about ‘days’. I am trying to clarify whether it also includes entitlements for half- or part-days.

**Mr Bohn**—It deals with days that are declared under a state or territory law. If the state or territory happened to declare a part-day then provisions in an award that dealt with that would be allowable.

**Senator McEWEN**—I think the question is more when an employee worked half a day which was a public holiday.

**Mr Bohn**—In terms of allowances—is that what you mean? I am not sure I understand.

**Senator WONG**—As I understand it, what Senator McEwen is asking is this. The definition of public holiday contained in the legislation refers to the observance of days declared and ‘entitlements of employees to payment in respect of those days’. She is asking whether or not the phrase ‘those days’ would include a half-day in the sense that one might say that the entitlement to payment for a day worked is double time under the relevant state award, but there is an argument that a half-day is not covered. It does not say ‘days or part thereof’.

**Mr Bohn**—My belief, though, is that that provision would cover part-days.

**Senator WONG**—Is that the intention?

**Mr Bohn**—Yes.

**CHAIR**—Before we go down this track, it is now 10 o’clock and I asked some time ago how long we would take to do cross-portfolio.

**Senator WONG**—We are off cross-portfolio now. We are on outcome 2.

**CHAIR**—In that case, Dr Boxall, some of your people may be able to leave, if they have not already done so.

**Senator WONG**—That is why I raised it before.

**CHAIR**—Thank you.

**Senator McEWEN**—According to the Work Choices legislation, only seven days have been mentioned specifically as public holidays. Not mentioned are Labour Day and the Queen’s Birthday.

**Mr Bohn**—I think, Senator, you are now at section 170AE.

**Senator WONG**—We do not have the act in front of us. Is it on the net yet?

**Mr Bohn**—Yes, it is. That provision is in a different part for a different purpose.

**Senator McEWEN**—Yes, I accept that. The rest of the question was: are there any rights, protections or entitlements with regard to Labour Day and the Queen’s Birthday holiday? They are the two not mentioned.

**Mr Bohn**—If those days are, as I believe they are, declared under state or territory law then they would be caught by the definition. The definition has two parts. The first part is the listed days and the second part is any other day et cetera. They would fall under any other day.

**Senator McEWEN**—As long as state governments declare them.

**Mr Bohn**—I believe those days are declared. Mr Pratt has just reminded me that the actual day—Labour Day, for example—celebrated varies between states.

**Senator WONG**—I did not understand that answer, Mr Bohn. That might be because I was trying to find the revised act on the internet.

**Mr Bohn**—I was just making the point that Mr Pratt reminded me that Labour Day, for example, is declared under state or territory law, but in respect of a different date in different states and territories.

**Senator WONG**—And the Queen's Birthday?

**Senator Abetz**—Similarly—she has many birthdays. And still 78 years young, or whatever.

**Senator WONG**—Keep celebrating, Eric. Keep doing it.

**CHAIR**—Actually, Western Australia is the only one that is different.

**Senator SIEWERT**—We are always different.

**Senator Abetz**—Is it?

**CHAIR**—Yes, according to my Senate diary—

**Senator Abetz**—There you go.

**CHAIR**—which I keep on hand for easy reference, as you can tell.

**Senator Abetz**—For these purposes.

**Senator McEWEN**—Going now to the regulations that will form part of the Work Choices legislation, when does the department expect the regulations to be completed?

**Mr Pratt**—The minister is on record saying that he expects the regulations will be proclaimed some time between mid and late March. I cannot give you any greater specificity than that.

**Senator McEWEN**—Do you anticipate that date will be met?

**Mr Pratt**—Yes.

**Senator McEWEN**—Was that the original scheduled date for the regulations?

**Mr Pratt**—The minister has been on record since, I guess, halfway through last year talking about that sort of date.

**Senator McEWEN**—Given that that date is not far away, do you have any idea of how many regulations there will be for us to consider in mid-March? Regulations are numbered.

**Mr Pratt**—We certainly would have an idea of what that is. I would have to take on notice, though, whether or not we are in a position to release that at this stage.

**Senator McEWEN**—Is it hundreds?

**Mr Smythe**—I think I can confidently say it will be hundreds, yes.

**Senator McEWEN**—We have heard information that it is in the order of 600 to 1,000. Would that be accurate?

**Mr Smythe**—I could not speculate as to whether that was accurate or not.

**Senator McEWEN**—You must have some idea, since they are going to be ready in a few weeks time.

**Senator Abetz**—Six hundred to 1,000 is hundreds. I think you ought to be satisfied with that.

**Senator McEWEN**—We are getting back to ‘few’ and ‘several’.

**Senator Abetz**—Yes, that’s it. It is more than five.

**Senator WONG**—Might it be four?

**Senator McEWEN**—Do you have any idea of the number of pages of regulations there might be?

**Mr Smythe**—No, Senator. You will appreciate that at this stage of the process a lot of people are working on different parts of the regulation. We do not have anything that looks like a consolidated document, so I could not speculate on the number of pages.

**Senator McEWEN**—You say a lot of people are working on those regulations. Are some of the people working on those regulations external legal advisers or consultants to the department?

**Mr Smythe**—There are still two secondees from private sector legal firms, who had been working with the department on the preparation of the Work Choices legislation, remaining with the department working on the preparation of regulations.

**Senator McEWEN**—Do we know what the department has spent so far on not just those two but any other legal consultants or advisers? What is the anticipated expenditure before the finalisation of those 600 to 1,000 regulations?

**Mr Smythe**—I cannot give you anticipated expenditure but I have the expenditure on secondees. Off the top of my head I can tell you that the total expenditure to date on secondees from private sector legal firms is in the order of \$742,000. When I find the document I can give you a breakdown of how much we have paid to each of the external providers, that is, the Australian Government Solicitor and the seven private sector legal firms.

**Senator McEWEN**—You can name the various firms and the Government Solicitor and the amount so far but you do not have a firm figure or a budget for any future expenses?

**Mr Smythe**—As Dr Boxall has already explained to the committee—

**Senator McEWEN**—It is a bottomless pit.

**Mr Smythe**—I do not think he said that.

**Dr Boxall**—It is not a bottomless pit.

**CHAIR**—Dr Boxall did not say that.

**Senator McEWEN**—Sorry, that was my interpretation.

**Mr Smythe**—I have found those figures. To 31 January the figures were: Australian Government Solicitor, \$193,990—I will not go to the cents; Minter Ellison, \$103,986; Clayton Utz, \$90,683; Freehills, \$88,615; Blake Dawson Waldron, \$85,501; Phillips Fox, \$75, 621; Harmers Workplace Lawyers, \$70,830; and Corrs Chambers Westgarth, \$32,913. That gives a total of \$742,143.

**Senator McEWEN**—Thank you. Will the regulations include further details on prohibited content in the context of workplace bargaining?

**Mr Smythe**—Yes, they will, but I think the WorkChoices booklet that was released by the government last year contains details of what the prohibited content will be and as I understand it there will be no prohibited content beyond that which was foreshadowed in the WorkChoices booklet.

**Senator McEWEN**—What is in the booklet will stand?

**Mr Smythe**—That is correct.

**Senator McEWEN**—At least for this lot of regulations.

**Mr Pratt**—It is on page 23.

**Senator McEWEN**—I am familiar with that.

**Mr Pratt**—It says:

Clauses that cannot be included in agreements are those:

Prohibiting AWAs;

Restricting the use of independent contractors or on-hire arrangements;

Allowing for industrial action during the term of an agreement;

That provide for trade union training leave, bargaining fees to trade unions or paid union meetings;

Providing that any future agreement must be a union collective agreement;

Mandating union involvement in dispute resolution;

Providing a remedy for unfair dismissal; and

Other matters proscribed by regulation/legislation.

**Senator McEWEN**—Thank you. I have a couple of questions in relation to bargaining agents. Did the department have any involvement in the preparation of comments made by Minister Andrews last year in which he declared that a bargaining agent under the government's industrial relations changes could include an accountant?

**Mr Pratt**—Not to our knowledge.

**Senator McEWEN**—The department did not advise Minister Andrews that an accountant could be a bargaining agent?

**Mr Pratt**—We do not talk about what advice we provide to the minister, but in terms of the people present I do not believe anyone provided that advice to the minister.

**Senator McEWEN**—Have any other areas of the department or agencies provided anyone with advice that an accountant could be a bargaining agent?

**Dr Boxall**—As Mr Pratt testified, not to our knowledge.

**Senator McEWEN**—He testified in relation to advice given to Minister Andrews.

**Senator Abetz**—Under the legislation anybody can be appointed as a bargaining agent and therefore it is not surprising that the minister would have said that, for example, an accountant could be a bargaining agent. In discussions I think someone even mentioned that, potentially, the parish priest could go along if you wanted that. The minister therefore not surprisingly would not need specific advice on that. I would not wish you to rush out with a press release saying that Minister Andrews was wrong because he had not been advised by the department that an accountant could be a bargaining agent. There is broad scope and within the broad scope an accountant could fit that bill.

**Senator McEWEN**—Minister, are you saying that anyone can be a bargaining agent? Is that correct? Are the regulations going to reflect that? I understood there were to be some parameters about who could or could not be a bargaining agent.

**Mr Smythe**—I am advised that the requirements for a bargaining agent in the new regulations will be the same as the requirements that are presently in place for bargaining agents, which are presently contained in regulation 30ZO of the current workplace relations regulations, ‘Qualifications and appointment of bargaining agents’.

**Senator McEWEN**—Please refresh my memory.

**Mr Smythe**—You are excluded if you have been appointed as a bargaining agent for another party to an AWA, if you are bankrupt or applying to take the benefit of any law for the relief of bankruptcy, if you are under 18 or if you have been convicted of various forms of offence. The offences are offences punishable by imprisonment for a year or longer, an offence that involved dishonesty and is punishable by imprisonment for six months or longer, an offence in connection with the negotiation of a certified agreement et cetera, or an offence under the Workplace Relations Act. That precludes you from being a bargaining agent for a period of five years.

**Senator Abetz**—In the WorkChoices booklet on page 44 it says at the bottom of the first column:

A bargaining agent can be—

you will be pleased to know—

a trade union representative, a friend, a relative, a solicitor, or any other adult whose advice an employee can rely on during the bargaining process.

**Senator McEWEN**—Technically, Minister, it cannot be just anybody, as you said previously.

**Senator Abetz**—It cannot be somebody who is bankrupt or somebody who has—

**CHAIR**—I think the minister has outlined the formal criminal prohibitions that would prevent somebody taking that responsibility and trust.

**Senator Abetz**—You are trying to split hairs. It started off with whether an accountant could be a bargaining agent and whether the department had given this advice, the suggestion being that the minister had got it wrong. I indicated that a wide range of people could be



bargaining agents. The exemptions, I thought, would be reasonably understood by commonsense.

**Senator McEWEN**—I just want to get the facts correct.

**Senator Abetz**—The minister was right: an accountant can be a bargaining agent.

**Senator WONG**—Senator McEwen, have you asked about departmental advice in relation to this issue?

**Senator Abetz**—That is what started this.

**Senator WONG**—The whole thing.

**Senator Abetz**—Yes—whether the department had advised the minister that an accountant could be a bargaining agent. I think that was Senator McEwen's question.

**Senator WONG**—I am sorry, Minister; I had been distracted. I want to go back to the update of question W587\_06 that Senator McEwen asked about, which was in relation to the number of unlawful dismissal claim prosecutions. In the answer that Mr Kovacic gave, as I recall, in determining the projected number of unlawful terminations which would require funding, analysis was had of past unlawful terminations. In that answer, you indicated that data was not available from the Federal Court and that the AIRC did not differentiate between unfair and unlawful dismissal cases in its case tracking system. I presume, therefore, that you must have utilised the AIRC annual reports. Or did you have another data set to which you referred?

**Mr Kovacic**—No. As I mentioned before, we would have used some of the data from the AIRC. The data that we would have relied on in terms of the AIRC would have been the data in terms of the number of certificates that have been issued in relation to unlawful termination grounds. We also looked at the data in relation to unlawful dismissal cases—at both federal and state levels—and made some assumptions. They may have gone from one stream to the other, if I can put it that way.

**Senator WONG**—If the AIRC did not differentiate and the Federal Court did not have anything between 1996 and 2003, where did you get that data?

**Mr Kovacic**—There are two streams of data that we used. One related to unlawful dismissal claims, at both federal and state level. The other stream was the data that is presented in that question, in terms of the number of unlawful termination cases. We would have been able to access that data from the court and the Industrial Relations Commission annual reports.

**Senator WONG**—In terms of the department's own record tracking, is it proposed to alter any procedures? Is the department intending to measure, given that, on the basis of the answer that has been provided, the data set is reasonably narrow?

**Mr Kovacic**—In terms of the tracking, it is really an issue for the Industrial Relations Commission. In the first instance, under the act there is a requirement for a potential applicant to go to the commission to initially seek to have the matter conciliated. If that proves unsuccessful, then the commission can issue a certificate that conciliation has proved unsuccessful and that the case has merits, and in those circumstances they are one of the sort

of criteria which an applicant needs to meet before he or she can be eligible for assistance under the unlawful termination assistance scheme. In terms of the number of applications, those applications would in the first instance be made to the Industrial Relations Commission.

**Senator McEWEN**—I would like to refer the department to answer to question on notice 575\_06, which went to the issue of all current workplace industrial relations legislation existing in Australia and the interface with the Work Choices legislation. In the answer, the department said it was unable to respond to the question in full, because that would involve an unreasonable diversion of the department's resources to do so.

**Dr Boxall**—Yes, that is the minister's answer, Senator McEwen.

**Senator McEWEN**—Subsequent to that answer, has the department undertaken any assessment of the legislation, state and federal, that would be affected by the introduction of the Work Choices legislation?

**Mr Smythe**—The department has given some consideration to various pieces of legislation in states that would be affected, but to my knowledge we have not undertaken a comprehensive assessment of every piece of legislation that might be affected.

**Senator McEWEN**—What is the scope of 'some consideration'?

**Mr Smythe**—In developing transitional arrangements and understanding how regulations dealing with transitional arrangements work, obviously the department would consider state industrial relations acts in considering whether we might need to make regulations to ensure that state laws were not excluded if they were not intended to be excluded. We have considered some pieces of state legislation but we have not considered every piece of state legislation that has an employment related aspect to it.

**Senator McEWEN**—Is there any intention to consider every aspect or every piece of legislation in the states, given that Work Choices is going to have wide-ranging effects?

**Mr Smythe**—No.

**Senator McEWEN**—Have you looked at occupational health and safety legislation in federal, state and territory jurisdictions?

**Mr Smythe**—Occupational health and safety legislation is not excluded by Work Choices. That is one of the ones that are specifically named as not being excluded by the Work Choices legislation.

**Senator McEWEN**—But some aspects of—

**Senator WONG**—Is there a single section of the amended act that deals with that, or is it in each of the divisions?

**Mr Smythe**—Section 7C.

**Senator WONG**—Of the amended act?

**Mr Smythe**—Of the Work Choices act, which will be section 7C of the amended act, because that is a new section.

**Senator WONG**—That is why I cannot find it online.

**Mr Smythe**—Subsection 7C(3) says: ‘The non-excluded matters are as follows ...’ and paragraph (c) of that subsection says, ‘Occupational health and safety’.

**Senator McEWEN**—What about workers compensation legislation?

**Mr Smythe**—In the same subsection, workers compensation legislation is similarly specified as state legislation which is not excluded by Work Choices.

**Senator WONG**—But not long service leave legislation? That is not specified in the same section, from memory.

**Mr Smythe**—Yes, it is. It is 7C(3)(e).

**Senator WONG**—It specifically addresses long service leave? I cannot find it. The online version I have found is incomplete.

**Mr Smythe**—Paragraph (e) of subsection (3) of section 7C specifies long service leave as a non-excluded matter.

**Senator McEWEN**—And anti-discrimination legislation?

**Mr Smythe**—Section 7C(2) says:

However, subsection (1) does not apply to a law of a State or Territory so far as:

(a) the law deals with the prevention of discrimination, the promotion of EEO or both ...

Broadly, anti-discrimination legislation is not excluded by Work Choices.

**Senator McEWEN**—We know what has not been considered, but is there any collated documentation about what has been considered?

**Mr Smythe**—No.

**Senator McEWEN**—Why not? No-one has done an analysis of whether, when this comes in, it is going to affect the South Australian state industrial relations act?

**Mr Smythe**—What we have is a section which fairly specifically says what is excluded then also fairly specifically says what is not excluded, then provides a power to make regulations to either exclude or not exclude other things that might come up from time to time.

**Senator McEWEN**—All right.

**CHAIR**—Senator Siewert some questions on advertising.

**Senator SIEWERT**—We touched on the costs of advertising, so I will not repeat those questions. I am more interested in what the department feels the effectiveness of the advertising was.

**Mr Kovacic**—The advertising itself was to inform the community about the rationale for the changes and the benefits that were likely to flow from the changes. The research that the department has undertaken indicates that community awareness of the changes increased significantly as a result of the advertising campaign, and to that extent we would consider it a success. The intention is that the conclusion of the implementation phase of targeted education activities will accompany the actual start date of Work Choices. Later this year we

will probably conduct a complete evaluation of the information, education and communication activities. At this stage it is probably premature to say anything further.

**Senator SIEWERT**—You said you have undertaken some research already?

**Mr Kovacic**—We have undertaken some market research as part of the campaign.

**Senator SIEWERT**—Is that research publicly available?

**Mr Kovacic**—No.

**Senator SIEWERT**—Can it be made available?

**Mr Kovacic**—I will take that on notice.

**Senator SIEWERT**—How was that research done?

**Mr Kovacic**—It was largely focus groups but also telephone interviews.

**Senator SIEWERT**—When was that done?

**Mr Kovacic**—I think it commenced in early October last year, and has been continuing since.

**Senator SIEWERT**—Was that research focused on one particular bit of the campaign, or did it look at the various bits?

**Mr Kovacic**—There were a couple of components. One was what you might describe as qualitative research, in the sense of tracking people's awareness of existing workplace arrangements and the proposed changes, and their views on those proposed changes. The other component was, in essence, a bit of market testing of the proposed creative and getting feedback on whether it proved effective at communicating the message.

**Senator SIEWERT**—Was it broken down into different community sectors?

**Mr Kovacic**—It was largely drawn from employer and employee participants. From memory there was also some separate research done on the needs of people of non-English-speaking and Indigenous backgrounds. That was a separate process.

**Senator SIEWERT**—You say you are undertaking some more research at the completion of the implementation?

**Mr Kovacic**—We will undertake an evaluation, probably later this year. The precise timing is yet to be finalised. It will be an evaluation of the information, education and communication activities associated with the introduction and implementation of Work Choices.

**Senator SIEWERT**—Does the advertising budget that you highlighted earlier include the advertising that will be done at the commencement of the implementation of the changes?

**Mr Kovacic**—At this stage there is no advertising campaign proposed for the implementation of Work Choices.

**Senator SIEWERT**—Sorry, I thought you said just then, when you were talking about the evaluation at the end, that you are going to be evaluating that as well.

**Mr Kovacic**—It would cover both the campaign that preceded the introduction of the Work Choices legislation and the targeted education activities that will coincide with the implementation of Work Choices.

**Senator SIEWERT**—So you do not plan any advertising at the implementation stage—is that what you mean?

**Mr Kovacic**—There is no intention at this stage.

**Senator SIEWERT**—Is there a separate budget item for the evaluation process?

**Mr Kovacic**—No.

**Senator SIEWERT**—How do we find out how much that process costs?

**Mr Kovacic**—It is still very premature because the evaluation has not been undertaken. Indeed, the process we will use to undertake that evaluation—for instance, whether we engage an external body or whether it is done in house—is a decision that is yet to be made.

**Senator SIEWERT**—I want to go back to the issue of different sections of the community and advertising. I have seen media reports that industry felt that the advertising campaign was not successful. Did your first lot of research include interviewing industry?

**Mr Kovacic**—As I indicated, employers were certainly part of the focus groups that were conducted as part of the tracking research.

**Senator SIEWERT**—Were they a separate focus group or part of?

**Mr Kovacic**—They were part of. In some instances focus groups may have been just employees or just employers and on other occasions they would have been a combination of the two.

**Mr Pratt**—I think the industry feedback was that employers were looking for more detail about what the changes entailed. Of course, it was not possible to provide that until after the legislation was settled, and that will not occur until mid to late March. That is when our targeted education activities will take over and make sure that employers and other stakeholders have that detail.

**Senator SIEWERT**—I understand that you are taking on notice the question of whether that research can be provided.

**Mr Kovacic**—That is correct.

**Senator WONG**—You are taking on notice the issue of provision of the research.

**Mr Pratt**—Yes.

**Senator WONG**—On what basis are you not able to provide it? It is not advice to government.

**Mr Kovacic**—There was a question on notice that we took at last estimates related to this issue. The answer on that occasion was: no, those reports would not be provided. I have taken it on notice against the background of that previous response.

**Senator WONG**—I think you have provided either tonight or on notice the break-up of the media buy, call centres and the WorkChoices information booklet. We did that earlier, didn't we? We did the Media buy and the call centres.

**Mr Pratt**—That is correct.

In **Senator WONG**—Did we get the funding for the WorkChoices information booklet? Was that part of the—

**Mr Kovacic**—It is part of the information education measure. The printing and distribution cost, which would be the estimated actual cost of producing the material, is \$2.181 million.

**Senator WONG**—For distribution?

**Mr Kovacic**—For printing and distribution.

**Senator WONG**—Is that within the current financial year?

**Mr Kovacic**—That is correct.

**Senator WONG**—Is it proposed to distribute any more?

**Mr Kovacic**—We intend using the booklets that we still have on hand as part of our targeted education activities to coincide with the implementation of Work Choices.

**Senator WONG**—How many do you still have on hand?

**Mr Kovacic**—I think it is in the order of 5.9 million.

**Senator WONG**—How many were originally ordered?

**Mr Kovacic**—It was around six million.

**Senator Wong**—So you have got rid of 100,000?

**Mr Kovacic**—No. We have distributed over 225,000.

**Senator WONG**—So there were just over six million ordered and about two hundred and something thousand—

**Mr Kovacic**—Have been ordered. Of that, 217,000 have been despatched as at 31 January.

**Senator WONG**—And you have 5.9 million left?

**Mr Kovacic**—That is correct.

**Senator WONG**—Where are they being warehoused?

**Mr Kovacic**—They are being housed at the distribution centre. There are just over four million in New South Wales and the remainder are at Salmat in Queensland.

**Senator WONG**—When you originally contracted with those warehousing facilities, what was the original length of the contract for warehousing?

**Mr Kovacic**—Salmat is contracted to the department to provide mail house and distribution services. That is a corporate contract, if I can describe it that way.

**Senator WONG**—And the other? There was one million in Salmat and four million elsewhere.

**Mr Kovacic**—No. That is Salmat in New South Wales, I am sorry.

**Senator WONG**—Okay. What is the cost of warehousing?

**Mr Kovacic**—It is in the order of \$8,000 a month.

**Senator WONG**—And did you give any indication at the time that they took receipt of them how long you expected them to be warehoused?

**Mr Kovacic**—No.

**Senator WONG**—Is there any documentation advising them how long you would require this space?

**Mr Kovacic**—No, not that I am aware of.

**Senator WONG**—How was it communicated to them?

**Mr Kovacic**—We envisaged that the booklets would be used as part of the Work Choices communication campaign prior to the introduction of the legislation. We are now also in a position to use them as part of our targeted education activities. The issue that we are now giving some consideration to is actually relocating some of those to departmental premises, given that they are going to be used as part of departmental seminars.

**Senator WONG**—But you are not going to need 5.9 million of them.

**Mr Pratt**—These booklets will be used over the next couple of years for the seminars and the various education activities that we will provide across that period.

**Senator WONG**—Were 217,000 despatched? Is that the figure?

**Mr Kovacic**—That is correct.

**Senator WONG**—Have any more been pulped?

**Mr Kovacic**—None since the advice I provided to the last estimates hearing.

**Senator WONG**—Can you remind me what the cost of the pulping was?

**Mr Kovacic**—There were 458,000 items. Both complete and incomplete documents were pulped. The cost of that was \$152,944, which equates to an average cost per unit of 33c.

**Senator WONG**—Can I turn now to the issue of recruitment, I presume, within workplace services—what is it called now?

**Mr Pratt**—The Office of Workplace Services.

**Senator WONG**—Right, OWS. Is the department currently intending to recruit additional staff for OWS?

**Mr Pratt**—Yes.

**Senator WONG**—How many staff are you seeking to recruit?

**Mr Pratt**—In total and in addition to OWS—we are also recruiting for the Workplace Advisory Service and our call centres and so forth—we will recruit somewhere between 400 and 500 staff.

**Senator WONG**—When did that recruitment campaign start?

**Mr Pratt**—It started late last year.

**Senator WONG**—After the passage of the bill or before?

**Mr Pratt**—After the passage of the bill.

**Senator WONG**—Have you recruited any to date?

**Mr Pratt**—The recruitment is imminent. I think we are in the process of taking on people right now. Whether we have actually recruited people as of today or whether that is going to happen in the next week or so, I will just check. My advice is that they are coming on right now.

**Senator WONG**—Do you have an estimate of how many have been employed?

**Mr Pratt**—Over the next few weeks—

**Senator WONG**—I am asking for the number to date.

**Mr Pratt**—We will take that on notice.

**Senator WONG**—You do not know how many you have employed to date? You told me they were coming on right now.

**Mr Pratt**—That is right. It is happening this week, next week and the following week.

**Senator WONG**—How many applications did you receive?

**Mr Pratt**—Over 10,000.

**Senator WONG**—Are any of these positions being offered on a fixed-term contract basis?

**Mr Brennan**—There will be some temporary contracts, but they will be limited in number. They are involved in locations where we have to have additional staff while we arrange longer term accommodation in another location. I think in total there is something in the order of 20. It is quite a small number overall.

**Senator WONG**—Are the remainder being offered permanent or casual employment?

**Mr Brennan**—Permanent employment, with a mixture of full-time and part-time positions.

**Senator WONG**—Are you able to give me a break-up of which areas the 400 to 500 will be employed in? I am happy for you to take it on notice. I assume you will be able to provide that.

**Mr Brennan**—If you are after indicative numbers rather than precise numbers, I can answer you now.

**Senator WONG**—Indicative is fine.

**Mr Brennan**—There are approximately 200 staff in the contact centres, approximately 200 staff in the Office of Workplace Services and 100 staff elsewhere in the department.

**Senator WONG**—Elsewhere?

**Mr Brennan**—Because of the general expansion in outcome 2, there are small numbers of positions in most areas. There is some increase associated with the general increase in activity.

**Senator SIEWERT**—Where will they be located?



**Mr Brennan**—You might recall earlier that there was a list of Office of Workplace Services locations, so they will be in all those locations. The contact centres will be in Perth, Sydney and Melbourne.

**Senator SIEWERT**—You do not have to do it now, but can you provide the numbers in each of those centres? Unless you know them now.

**Mr Pratt**—They will be indicative numbers.

**Mr Brennan**—They will be indicative numbers because it is subject, of course, to the success of the recruitment in the office going on at the moment.

**Senator WONG**—When is the commencement date that is proposed? You have some coming on now, but are you doing them in batches?

**Mr Pratt**—Yes. As quickly as we can take people on, we will. We do not have a set commencement date. That is why we were saying before that people are coming on this week, next week and the following week.

**Senator WONG**—Are you recruiting in particular areas, like OWS or the contact centres, more aggressively? Is there a priority there?

**Mr Pratt**—Yes, in the sense that the immediate priority is the recruitment in the metro areas, particularly for the call centres and the OWS staff. This will be followed by another phase of recruitment for the Office of Workplace Services locations in regional areas, as we obtain those.

**Senator WONG**—Let us turn to the award review task force. The secretariat is located in the department, correct?

**Mr Kovacic**—That is correct.

**Senator WONG**—Is there a secondment of staff to the secretariat?

**Mr Kovacic**—There are some non-ongoing staff who have been recruited from outside the department to assist the secretariat. Some of those are drawn from the Australian Industrial Registry. Some of them are former employees of the registry. But, predominantly, they are employees of the department.

**Senator WONG**—How many staff are engaged in the secretariat?

**Mr Kovacic**—There are 20 at the moment.

**Senator WONG**—When did they commence?

**Mr Kovacic**—They commenced at various stages from probably October through until now. We are still in the process of seeking to recruit additional staff.

**Senator WONG**—Is there a budget for the secretariat?

**Mr Kovacic**—Yes.

**Senator WONG**—What is that?

**Mr Kovacic**—That is explained—

**Senator WONG**—That is the additional appropriation?

**Mr Kovacic**—Exactly. That is \$7.364 million for this financial year and a further \$1.655 million for next financial year.

**Senator WONG**—Is that the total cost associated with the task force?

**Mr Kovacic**—That is correct.

**Senator WONG**—How many times has the task force reference group met?

**Mr Kovacic**—Once.

**Senator WONG**—When was that?

**Mr Kovacic**—It was last Thursday.

**Senator WONG**—That was the first time they had met?

**Mr Kovacic**—That is correct.

**Senator WONG**—Has there been discussion about an extension of the deadline?

**Mr Kovacic**—I understand that the chair made some public comments last night that he may wish to seek an extension of the time frame, but at this stage there is no formal request that I am aware of.

**Senator WONG**—Is it intended that the task force commission an award relevance study to analyse the extent of reliance on awards?

**Mr Kovacic**—I am aware that that is one of the issues that the task force is considering. Indeed, there were some comments by the chair of the task force to that effect last night.

**Senator WONG**—Have the terms of reference for that study been developed?

**Mr Kovacic**—The department is currently in the process of developing a request for tender for a consultancy to conduct that study.

**Senator WONG**—When is that RFT expected to be finalised?

**Ms McSorley**—It is likely that that RFT will go out sometime towards the end of next month.

**Senator WONG**—From which aspect of the department's appropriations will this be funded?

**Mr Kovacic**—It would come from the appropriation relating to the award review task force.

**Senator WONG**—So that appropriation to which you referred me earlier relates to both the secretariat staffing costs and all other costs, such as the tender and the costs of running the task force?

**Mr Kovacic**—That is correct.

**Mr Pratt**—It is output 2.1.1.

**Senator WONG**—Yes. Is the salary of departmental officers who are currently working in the secretariat still being met from that line item or from outcome 2 more generally?

**Mr Kovacic**—It would be met from the measure related to the award review task force.

**Senator WONG**—Does the department agree with Mr O’Callaghan’s comments that the deadline may not be achieved and it might take a bit longer? Is that realistic?

**Mr Kovacic**—That is the chair’s view, but he would not offer an opinion on that.

**Senator WONG**—The RFT will go out at the end of March. Is this a study that the task force has commissioned in order to perform its functions?

**Ms McSorley**—Yes.

**Senator WONG**—So it is only going to be put out for tender after the March deadline has passed?

**Ms McSorley**—The task force has two deadlines. The first one is March, and the second one is July. The initial report to government will be delivered according to the terms of reference at the end of March. The final report will go in July.

**Senator WONG**—Was there a discussion paper prepared by the task force?

**Mr Kovacic**—Yes. There were two discussion papers.

**Senator WONG**—What input did ACCI have into that discussion paper?

**Mr Kovacic**—None.

**Senator WONG**—What about AiG?

**Mr Kovacic**—None.

**Senator WONG**—BCA?

**Mr Kovacic**—None. Both discussion papers were developed and issued by the task force chair, with assistance from the task force secretariat, with the intention of inviting comments from interested parties. To date, we have received 84 submissions from a range of bodies, including the ones you mentioned.

**Senator WONG**—The discussion paper that was issued on 20 December stated that there were over 4,000 awards applying across the country, both federal and state. Of the 2,200 federal awards, how many are 170MX awards?

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

**Senator WONG**—How many are agreements which have been then determined as an award?

**Mr Kovacic**—There would be a number of enterprise awards among that number, but the precise number I could not say.

**Senator WONG**—Do you have that data?

**Mr Kovacic**—I would have to take that on notice. In terms of MX awards, it would be a very small proportion.

**Senator WONG**—In preparing the discussion paper, did you analyse what type of awards there were?

**Mr Kovacic**—There were some preliminary analysis.

**Senator WONG**—What was that? Perhaps it might be easier if we do it this way.

**Mr Kovacic**—It was looking at current awards, the extent to which they might fall into the categories of enterprise awards and might be issue-specific—for instance, a long service leave award or something of that ilk, and perhaps generic awards.

**Senator WONG**—Can you tell me how many federal awards fall into the categories you have outlined?

**Mr Kovacic**—I would have to take that on notice. I do not have the figures with me.

**Senator WONG**—Did you do consider an average, for example, of how many awards apply per workplace?

**Mr Kovacic**—I think that is part of the issue that the award relevance study might seek to establish.

**Senator WONG**—I am sorry. I did not mean hypothetically consider it or consider it in a policy sense; I meant in terms of data.

**Mr Kovacic**—It is very difficult to assess without actually talking to businesses and employers that are covered by awards.

**Senator WONG**—How was the estimate of tens of thousands of wage classifications currently in awards was arrived at?

**Mr Kovacic**—If you look at the metal industry's award, for example, it has 14 classifications with the range of pay points in the award. If you extrapolate that across the number of awards at both the federal and state levels, it provides you with an indication. I do not think we used the precise numbers that were in the metal industry award but an average.

**Senator WONG**—What do you mean by extrapolated across? Are you counting an award which is in a different sector but still has the same relativities as per the metal's award as a different classification?

**Mr Kovacic**—No, what I was saying was that not necessarily all the awards have the same number of classification levels or pay points in the award; they vary across sectors.

**Senator WONG**—Have you done analysis of how many awards have classifications outside the 14-level metal industry structure?

**Ms McSorley**—We have started to do some of that work for the task force chair. I could not give you a definitive number yet, but it does seem to be quite a few. We have just started with a small sample—we started with the hospitality and retail sectors—and then moved out and included a few other sectors like transport.

**Senator WONG**—Is this federal or state?

**Ms McSorley**—These are federal. We included a few state awards as well, just to do some preliminary work. It is clear that there is a wide range.

**Senator WONG**—So you think that more than half might have classifications outside of that structure? I am just trying to get a sense of the trend.

**Ms McSorley**—I suspect so.

**Senator WONG**—About half?

**Ms McSorley**—I could not say definitively, sorry.

**Senator McEWEN**—I have a couple of questions about the appointment of David Cragg to the award review task force. Can the government explain how it came to announce the appointment of David Cragg?

**Mr Pratt**—No. The appointments of members of the reference group were government appointment matters. The government determined who would be invited. We are not in a position to answer those questions.

**Senator McEWEN**—So the department had nothing to do with that at all.

**Mr Pratt**—It was a government appointment matter.

**Senator McEWEN**—Did you provide any advice about people that should be approached, likely contenders?

**Mr Pratt**—Again, we do not answer questions about the nature of the advice that we give to ministers.

**Senator WONG**—Did you provide a short list to government?

**Mr Pratt**—I do not believe we did. I do recall some canvassing of names.

**Senator McEWEN**—Did that include Mr Cragg?

**Dr Boxall**—We cannot comment on that, Senator McEwen.

**Senator Abetz**—That goes to the actual advice.

**Senator WONG**—When was this canvassing of names, Mr Pratt?

**Mr Pratt**—It would have been last year.

**Senator WONG**—Prior to the passage of the legislation?

**Dr Boxall**—Possibly, or possibly afterwards.

**Senator WONG**—Sorry, Dr Boxall, I did not realise you were involved in the canvassing of names.

**Dr Boxall**—As a matter of fact, I was, along with Mr Pratt. We have continuous dialogue—

**Senator WONG**—Yes, there are a lot of continuous things in the department. We learned that this morning.

**Senator Abetz**—As there should be.

**Dr Boxall**—We have continuous dialogue with both our ministers, including Minister Andrews, and from time to time we canvass names with Minister Andrews for appointments.

**Senator WONG**—When were the names canvassed?

**Dr Boxall**—Mr Pratt has just answered that: sometime in the last quarter of last year.

**Mr Pratt**—That is right. And it would have been over a period.

**Dr Boxall**—Over a period, on a continuous basis.

**Mr Pratt**—Correct.

**Senator WONG**—So there were a number of discussions.

**Dr Boxall**—Indeed.

**Senator WONG**—Five, 10, 20?

**Dr Boxall**—I do not know. I cannot recall.

**Mr Pratt**—Senator, these are iterative processes.

**Senator WONG**—‘Continuous’ processes, Mr Pratt. Get your terminology right.

**Mr Pratt**—Continuous and iterative.

**Senator McEWEN**—Who handled the process of nominations? Were they tapped on the shoulder, or were nominations sought?

**Dr Boxall**—The usual process for government appointments is that the minister who has responsibility for the organisation will make suggestions to the Prime Minister. The Prime Minister decides whether those names should be taken to cabinet or whether he will deal with it himself. In terms of the nominations, the minister would have initiated a process with the Prime Minister, who may or may not have taken it to cabinet.

**Senator McEWEN**—In closing, I would like to squeeze in a couple of questions about the Fair Pay Commission.

**CHAIR**—You have about 2½ minutes, Senator McEwen.

**Senator WONG**—Senator McEwen has not been to many estimates rounds. Give her a bit of leeway.

**Senator McEWEN**—I am not sure if I want it. I refer to an answer to question on notice W609. That was an answer in relation to the situation where the Fair Pay Commission is able to vary rates of pay for people who were covered by state awards but who then become covered by the transitional award for three years.

**Dr Boxall**—Yes. I have that answer.

**Senator McEWEN**—Is it the case that the Fair Pay Commission can set a rate of pay for those people that is lower than the rate of pay that they would have been on under their state award?

**Mr Pratt**—Senator Wong, while we are waiting for that answer, I will add to an answer I gave you earlier about the recruitment of staff for OWS. Our actual recruitment processes, as I indicated, did not commence until after the act received royal assent. However, we did anticipate that and ran advertisements in late November and early December.

**Senator WONG**—Thank you.

**Mr Kovacic**—Senator McEwen, in answer to your question: the Fair Pay Commission will not be able to reduce wages beneath the level on day one, if I can put it that way.

**Senator McEWEN**—Beneath the level of the state award that would have otherwise applied to that worker?

**Mr Kovacic**—Beneath the level of the state award on day one, yes.

**Senator McEWEN**—Which bits of the act guarantee that? Perhaps while Mr De Silva is looking that up, and given the time, I might ask another question that might cause him—

**CHAIR**—I am sorry. We are out of time. It is 11 o'clock. This is the last question.

**Senator WONG**—We have got time while he is looking.

**Mr De Silva**—It is in subdivision D, which is 90L.

**Senator McEWEN**—Thank you, Mr De Silva.

**CHAIR**—This concludes the examination of the additional estimates. I would like to thank the minister very much. Dr Boxall and officers of the department, thank you. To Hansard, thank you very much; and to the secretariat, thank you very much indeed.

**Senator Abetz**—And thank you, Chair, for chairing the hearing so well.

**Committee adjourned at 11.01 pm**