



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## **SENATE**

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

**(Additional Estimates)**

TUESDAY, 17 FEBRUARY 2004

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE**

**Tuesday, 17 February 2004**

**Members:** Senator Payne (*Chair*), Senator Bolkus (*Deputy Chair*), Senators Greig, Ludwig, Mason and Scullion

**Senators in attendance:** Senators Bartlett, Crossin, Greig, Kirk, Ludwig, O'Brien, Payne, Scullion and Sherry

**Committee met at 9.04 a.m.**

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS  
PORTFOLIO**

**In Attendance**

Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs

**Department of Immigration and Multicultural and Indigenous Affairs**

**Executive**

Mr Bill Farmer, Secretary

Mr Ed Killesteyn, Deputy Secretary

Ms Philippa Godwin, Deputy Secretary

**Outcome 1: Contributing to Australia's Society and Its Economic Advancement through the Lawful and Orderly Entry and Stay of People**

**Output 1.1: Non-humanitarian entry and stay**

Mr Abul Rizvi PSM, First Assistant Secretary, Migration and Temporary Entry Division

Mr Noel Barnsley, Acting Assistant Secretary, Migration Branch

Ms Arja Keski-Nummi, Assistant Secretary, Temporary Entry Branch

Mr Bernie Waters, Assistant Secretary, Business Branch

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

Mr Peter Hughes, First Assistant Secretary, Refugee, Humanitarian and International Division

Mr Robert Illingworth, Assistant Secretary, Onshore Protection Branch

Ms Rosemary Greaves, Assistant Secretary, International Cooperation Branch

Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch

**Output 1.3: Enforcement of immigration law**

Mr Steve Davis, First Assistant Secretary, Unauthorised Arrivals and Detention Division

Mr Jim Williams, Assistant Secretary, Unauthorised Arrivals and Detention Operations Branch

Mr David Doherty, Assistant Secretary, Detention Contract and Infrastructure Branch

Mr Vince McMahon PSM, Executive Coordinator, Border Control and Compliance Division

Ms Janette Houghton, Assistant Secretary, Identity Fraud and Biometrics Branch

Ms Yole Daniels, Assistant Secretary, Compliance and Analysis Branch

Mr Todd Frew, Assistant Secretary, Entry Policy and Systems Branch

Mr Vincent Giuca, Director, Character and Cancellation Section

Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division  
Mr John Eyers, Assistant Secretary, Legal Services and Litigation Branch  
Ms Lesley Daw, Assistant Secretary, Property and Performance Improvement Branch

**Output 1.4: Safe haven**

Mr Peter Hughes, First Assistant Secretary, Refugee, Humanitarian and International Division

Ms Robyn Bicket, Assistant Secretary, Humanitarian Branch

**Output 1.5: Offshore asylum seeker management**

Mr Vince McMahon PSM, Executive Coordinator, Border Control and Compliance Division

Mr John Okely, Assistant Secretary, Offshore Asylum Seeker Management Branch

**Outcome 2: A Society which Values Australian Citizenship, Appreciates Cultural Diversity and Enables Migrants to Participate Equitably**

**Output 2.1: Settlement services**

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

Ms Jennifer Bryant, Senior Assistant Secretary, Settlement Branch

**Output 2.3: Australian citizenship**

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

Ms Mary-Anne Ellis, Assistant Secretary, Citizenship and Language Services Branch

**Output 2.4: Appreciation of cultural diversity**

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

Dr Thu Nguyen-Hoan PSM, Assistant Secretary, Multicultural Affairs Branch

**Outcome 3: Sound and Well-Coordinated Policies, Programs and Decision-Making Processes in Relation to Indigenous Affairs and Reconciliation**

**Output 3.1: Indigenous policy**

Mr Peter Vaughan, Executive Coordinator, Office of Aboriginal and Torres Strait Islander Affairs

Mr Stephen Oxley, Assistant Secretary, Land, Legal and Economic Development Branch

Ms Dianne Hawgood, Executive Director, Indigenous Community Coordination Taskforce

Ms Michelle Patterson, Assistant Secretary, Indigenous Community Coordination Taskforce

**Internal Products**

**Financial Services**

Ms Louise Gray, Chief Financial Officer, Resource Management Branch

**Parliamentary and Legal Services**

Mr Douglas Walker, Assistant Secretary, Visa Framework Branch

Ms Kate Pope, Assistant Secretary, Ministerial and Communications Branch

**Information Technology**

Ms Cheryl Hannah, Chief Information Officer, Business Solutions Group

**Aboriginal and Torres Strait Islander Commission**

Mr Wayne Gibbons, Chief Executive Officer

Mr Rod Alfredson, Director, Office of Evaluation and Audit

**Aboriginal and Torres Strait Islander Services**

Mr Wayne Gibbons, Chief Executive Officer

Mr Bernie Yates, Executive Coordinator

Mr Pat Watson, Group Manager, Corporate

Ms Adrienne Gillam, Acting Group Manager for Economic and Social Participation  
Mr Paul Barrett, Chief Finance Officer  
Mr Kerrie Tim, Group Manager, Social and Physical Wellbeing  
Mr Les Turner, Group Manager, Culture Rights and Justice  
Mr Peter Schnierer, Group Manager, Coordination and Review Policy  
Mr Brian Stacey, Group Manager, Land and Development  
Ms Laura Beacroft, Registrar of Aboriginal Corporations  
Mr John Kelly, Group Manager, Corporate  
Ms Ros Kenway, Legal Counsel  
Mr Richard Aspinall, Whole of Government—COAG  
Mr Brian McMillan, Investigation and Compliance Branch

**Indigenous Business Australia**

Mr Ian Myers, Deputy General Manager  
Ms Val Price-Beck, Manager, Business Participation

**Australian Institute of Aboriginal and Torres Strait Islander Studies**

Mr Steve Larkin, Acting Principal  
Dr Luke Taylor, Acting Deputy Principal  
Mr Tony Boxall, Director, Corporate Services

**Torres Strait Regional Authority**

Mr Mike Fordham, General Manager

**Refugee Review Tribunal**

Mr Steve Karas, Principal Member  
Mr John Blount, Deputy Principal Member  
Mr John Lynch, Registrar  
Mr Rhys Jones, Deputy Registrar

**Migration Review Tribunal**

Mr Steve Karas, Principal Member  
Mr John Lynch, Registrar  
Mr Rhys Jones, Deputy Registrar

**CHAIR**—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. This is the additional round of estimates for the Attorney-General's and the Immigration and Multicultural and Indigenous Affairs portfolios. The committee will today commence its examination of the Immigration and Multicultural and Indigenous Affairs portfolio, proceeding according to the order on the circulated agenda. We will begin with the Migration Review Tribunal and the Refugee Review Tribunal, to be followed by the department and agencies relating to Indigenous policy. Today's hearing will be suspended for a lunch break from 1.00 to 2.00 p.m. and a dinner break from 6.30 to 7.30 p.m. These breaks will be taken as close to the scheduled times as possible.

The committee has authorised the recording and rebroadcasting of its proceedings in accordance with the rules contained in the order of the Senate dated 31 August 1999. The committee has agreed to the date of Friday, 2 April for receipt of answers to questions taken on notice and additional information. The committee requests that answers be provided to the secretariat in electronic format where possible. I remind everyone present to please turn off or at least turn down your mobile phone while you are present in the hearing room.

I welcome Senator the Hon. Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs; Mr Bill Farmer, Secretary of the Department of Immigration and

Multicultural and Indigenous Affairs; and other officers of the department and associated agencies. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988, to the procedures to be observed by Senate committees for the protection of witnesses and in particular to resolution 1(10), which states in part:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken.

Resolution 1(16) states:

An officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I note that there are two outstanding answers to questions on notice from the 4 November supplementary estimates round. The committee looks forward to receiving those. Minister or Mr Farmer, do you wish to make an opening statement?

**Senator Vanstone**—Thank you. I would like to say yet again how pleased I am to be here and that I am looking forward to this day, with all of you, and to sharing a wealth of information! I would also like to fess up immediately. In relation to the estimates questions, I think those two are somewhere in the system. They were signed off yesterday. We will get someone to make sure that that is the case. If they are not, we will find out where they are. In relation to the other estimates questions, I will further fess up that some were not provided perhaps as quickly as they have been in the past. In previous portfolios I have taken some pride in improving the delivery of answers to estimates because I clearly remember being in opposition in estimates and getting frustrated when answers did not come quickly. There were some that the department was not able to get done as quickly as they could have, but that was only a few. Most of them were given to me before Christmas. It was just an unfortunate juxtaposition of events, with various advisers who were responsible being on leave, that meant that they were not attended to as quickly as they should have been. That will not happen again. We will watch out for it. I do not expect that it would be a problem during the remainder of this year, but, should the election be at the end of this year, should we be re-elected and should I have this same portfolio, I can assure you that, come the Christmas break, I will be watching out for that trap for young players—watch out when a variety of people are taking leave. Is that a good enough fess up?

**CHAIR**—Thank you. We appreciate that undertaking. Because of previous cooperation, the committee did write a very gentle letter to Mr Farmer indicating that we were looking forward with great anticipation to those answers.

**Senator Vanstone**—That is fair enough. They should be answered quickly. This portfolio is, as I understand it, generally pretty good. I have always tried to make other portfolios better.

If this is pretty good, we might settle with the pretty good standard and leave it at that. But I am just indicating that I was a player in it—or my office and I together—and we are not anticipating that it will happen again.

**CHAIR**—Thank you. We appreciate that undertaking. With the committee's agreement, we will move to the tribunals before us, the Migration Review Tribunal and the Refugee Review Tribunal. We will begin with questions from Senator Kirk and then probably go to Senator Bartlett after that.

[9.09 a.m.]

**Migration Review Tribunal  
Refugee Review Tribunal**

**Senator KIRK**—I have some questions of the MRT to begin with. Could you inform the committee as to how many cases the MRT has finalised since 1 July 2003.

**Mr Karas**—Since 1 July 2003 to 31 January 2004 the MRT has finalised 5,278 cases. It received in that period 4,953 cases and, as at the end of January 2004, the tribunal has 6,950 cases still on hand. Do you want the figures for the previous financial year to compare?

**Senator KIRK**—Yes, that might be helpful to us.

**Mr Karas**—For the last financial year, 2002-03, the tribunal received 8,856 cases, finalised 9,715 cases and as at 1 July had 7,274 cases on hand.

**Senator KIRK**—You have given us figures from last year and also from this year and I am trying to make a comparison and determine whether or not the MRT members have reached their case load targets since 1 July last year.

**Mr Karas**—Given the fact that we plan to finalise over 10,000 cases this year, as at 31 January I would have to say that we are slightly behind in our pro rata target. But that is usually the case. In my association with the tribunals down the years it is always the case that about the Christmas and New Year period the number of cases finalised drops off a little. But there seems to be a surge at the end of the year and, as a result of that, we usually meet or surpass the target. It is anticipated that we should be able to do that again this year too.

**Senator KIRK**—Do you have a case target for the number of cases you seek to finalise per day?

**Mr Karas**—Yes. There was always the anticipation that members would finalise two standard cases per day. But, in relation to the case management system, the tribunal is moving now towards a system whereby members have a specific case finalisation number which they would have to meet. At this stage it appears that full-time members would be expected to complete something like 300 cases in a full year.

**Senator KIRK**—So I take it that you have revised the target system—is that what you are saying to me? Has that been a recent development?

**Mr Karas**—I would not say that we have revised the target. We are trying to have more certainty in relation to our case finalisations and the reports on the basis that not only does it have resource implications for the tribunal but also enables the tribunal in discussions with the Department of Finance and Administration to be able to come up with a more certain figure, if

I can use that expression, rather than a situation where the Department of Finance and Administration may have, as we might have had, not so much a guesstimate but an idea of the number of cases. It allows for ongoing management of members' case loads and at the same time members do have in their own minds a number which the tribunal would like them to achieve.

**Senator KIRK**—This new certainty target that you are describing—the 300 cases per year—was introduced recently, post 1 July 2003?

**Mr Karas**—No. That will be introduced for the coming financial year. We are just in the throes of introducing this particular case management matter. I have just completed with the deputy registrar a series of meetings with members to apprise them of the senior management decision in relation to it, to take questions in relation to what is being proposed and, at the same time, to explain to them in more detail how the case finalisation report will work and how they have to report to the senior members when, for argument's sake, they are off from work just so that the figures are kept up-to-date and the calculations and adjustments that need to be made are made.

**Senator SHERRY**—Mr Karas, you said two cases was the target.

**Mr Karas**—Two standard cases.

**Senator SHERRY**—Then you used the figure of 300 per year for a full-time member, which is 0.8 per day. Can you explain what the difference is and why?

**Mr Karas**—The figure of 300 cases or thereabouts takes into account the fact that people might be away for six weeks of the year, taking into account holidays and other times when people might be away for sick leave, long weekends and that sort of thing. Also, in the case weighting system some cases are regarded as different from a standard case. As a result of that, in most of the registries the case weighting figure is something like 1.41 in relation to a case that may be completed. In other words, there are actual cases where the complexity of the case affects the time usually taken to complete a case of that nature. I use a spouse case by way of example. In that situation, when a member completes a spouse case they usually allocate it a little over. It is one case that has finished but it is calculated a little higher—1.148 or thereabouts.

**Senator SHERRY**—On the reasons you have given I can understand the change. I am trying to find out whether the new target is a reduction. It seems to me that it is a reduction, notwithstanding the reasons you have outlined to explain the detail of the new calculations.

**Mr Jones**—There has not been any fundamental change. The actual case targets that we are now talking about for members over the course of the year are based on the productivity measurement that was applied in the tribunal in the previous three years. A standard case in our terms is something like a visitor case, an application for a visitor visa. Spouse visas and cancellations of visas are weighted higher in that scheme. But the same weighting arrangement that applied for the tribunal over the last three years has been applied to the actual case targets that are being discussed at the moment.

**Senator SHERRY**—What indication do we have for the new target per day? Is it more than two, less than two or the same?

**Mr Jones**—It is clearly less than two. I think Mr Karas has mentioned 1.4. That is an average across the whole range of cases.

**Senator KIRK**—You mentioned that this change came about as a consequence of a decision by senior management. Is that correct?

**Mr Karas**—Yes.

**Senator KIRK**—Was there any instruction from the minister in relation to this change?

**Mr Karas**—No. The tribunal continues to look at introducing administrative efficiencies and better ways to do its work. The senior management group—which consists of me, the registrar, the deputy registrar, the senior members and district registrars from time to time—looks at ways and means by which we can finalise more cases, for example, and at the same time looks at the role which staff have in relation to case finalisations. Generally it is something that we take as part and parcel of the program of management of the tribunal and the workloads of members and staff.

**Mr Lynch**—The tribunals are engaged in workplace reform universally across both tribunals. The joint management board is looking to ensure that the constitutions policy, which is what we talking about, and productivity measures and so forth are applied equitably in terms of policy across both tribunals. This is consistent with government efficiency initiatives which the tribunals have been employing over the last two to three years. We have been engaging in fairly substantial staff workplace review to improve the productivity of members and to free them up to improve the quality of their decisions and hopefully their outputs as well.

**Senator KIRK**—Is it fair to say that this change in the target has come about as part of the workplace reforms discussion that you have been describing for me?

**Mr Lynch**—We have a great deal of workplace reform in terms of staff case officer support for members. Also, members' activities are under review in terms of how they make decisions, the length of their decisions and the amount of effort they put into the inquisitorial investigation side of an application for review. We are reducing in some areas the effort staff have to put into the case decisions. In some instances a lot of evidence is generated by the staff which, at the end of the day, members do not rely on because it has become outdated by the time the hearing takes place and additional evidence is supplied by the applicant and the adviser. We are looking for efficiencies in staff activity but also member activity and we are looking to make the constitutions policy as transparent as possible and to make the two tribunals' policies link up as far as possible. The joint management board is oversighting that process in both tribunals.

**Senator KIRK**—Are the reviews that you have done public documents?

**Mr Lynch**—The constitutions policy is certainly available. We can make that available to you, Senator.

**Senator KIRK**—Thank you. Since 1 July 2003, how many MRT decisions have been the subject of further litigation through either the Federal Court or the High Court?

**Mr Karas**—For the last financial year 2002-03, 495 applications for judicial review were lodged. Of these, 416 cases were finalised; 384 cases were upheld or withdrawn; and, in 32

cases that were set aside, 10 were done so by judgment of the court and 22 by consent of the parties. From 1 July 2003 to 31 January 2004, 365 applications for judicial review were lodged and 183 have been finalised. Of the 183 finalised, 153 cases have been upheld or withdrawn and 30 cases have been set aside, eight by judgment and 22 by consent. In the month of January about 25 applications for judicial review were lodged, and that is below the monthly average which has been averaging about 47 or thereabouts for the last financial year. That may have something to do with the fact that January is traditionally a quiet month, if I can use that expression, for courts.

**Senator KIRK**—Are those applications for judicial review primarily to the Federal Court or to the High Court?

**Mr Karas**—They are primarily to the Federal Court and the Magistrates Court. In the Refugee Review Tribunal there would be more going to the High Court.

**Senator KIRK**—I think you may have mentioned these figures but how many of those cases that were returned to the MRT were returned with a recommendation by the court for further consideration? Were they the figures that you gave me?

**Mr Karas**—In the last financial year there were 10 of those cases and up until the end of January there were eight by judgment of the court.

**Senator KIRK**—In the past six months there have been eight. It looks like that number might be up a bit for this financial year.

**Mr Karas**—Yes, it appears that what was the case for the previous financial year may have been surpassed, if I can use that expression.

**Senator KIRK**—My question is now in relation to the RRT. Again, it is the same question: since 1 July how many cases have the RRT finalised?

**Mr Karas**—From 1 July 2003 to 31 January 2004, 1,987 cases were received in the Refugee Review Tribunal, which is down some 38.4 per cent when compared to the same period last year. And in that period—July to the end of January—the Refugee Review Tribunal finalised 3,674 cases, which is up some 6.2 per cent for the same period last year. The tribunal had 1,993 cases on hand at that time, which is a little over a 46 per cent reduction in the cases on hand from 1 July 2003.

**Senator KIRK**—What accounts for the reductions in numbers that you have just described?

**Mr Karas**—There has been a reduction in the case load because the number of detention cases had declined substantially. At the same time it was anticipated by the tribunal that the temporary protection visas that were granted three and more years ago would start to expire and that after decisions were made there the tribunal would receive a number of those cases. But at this time the further protection visas are coming to the tribunal at a lower rate than was anticipated—70 to 80 per cent a month—and at the same time it seems that there are not as many applications being made to the Refugee Review Tribunal for the review of these types of cases.

**Senator KIRK**—On the question of TPVs, how many applications for further protection from TPV holders have been considered by the RRT?

**Mr Karas**—As at 31 January 2004, 390 further protection visa cases had been lodged with the tribunal. As at 31 January 2004, the tribunal had 360 further protection visa cases on hand. At the same time the tribunal had made some 30 FPV related decisions and although that is a small number it appears that 28 of those decisions related to Afghanistan.

**Senator SHERRY**—I would like to follow up on that, Mr Karas. There has been a reduction in workload.

**Mr Karas**—Yes.

**Senator SHERRY**—Has there been any adjustment yet on the forward estimates of the costs of the RRT as a consequence?

**Mr Lynch**—We have sought a total increase from the budget estimate of the PBS so at the moment our revised estimate is a total of \$23.8 million.

**Senator SHERRY**—Is that just for the RRT?

**Mr Lynch**—Yes. This comprises \$21.6 million in departmental output appropriations, which is an increase of \$1.9 million on that forecast at the outset. An amount of \$2.2 million, which relates to previous years' outputs, is factored into our estimates. So that is an increase of \$2.2 million.

**Senator SHERRY**—I will get to the increase in a moment. Are these figures for this current financial year?

**Mr Lynch**—That is correct.

**Senator SHERRY**—Why is that going up when the case load is going down?

**Mr Lynch**—There are a couple of factors in play here. Finalisations have not declined. We have been very successful in recent years, particularly over the last two years, in increasing the target finalisations and exceeding them by a fairly considerable number, which has provided the tribunal with cash reserves. We are in a situation where, since the 2000-01 financial year, we have accumulated nearly \$7 million in cash reserves. We have been working with the Department of Finance and Administration to reduce those reserves and our purchasing price per finalised case has necessarily been modified in successive years since 2000-01 to make provision for the peak of cash reserves. So we have been reducing those cash reserves and we have had approved losses in each of the successive years, save for last year when we had a surplus.

The numbers that Mr Karas has provided suggest that we are getting to the point with our finalisations and with the cases on hand where we need to review closely our global operating costs, and we are engaged in that process with DOFA now. When our purchasing agreement ceases at the end of this financial year, we will have a new funding agreement which will establish what our fixed operating costs are, with some flexibility for variables. The total increase looks large at \$4.1 million but, in context, we are reducing cash reserves and have obtained agreement to be in planned deficit.

**Senator SHERRY**—Do you intend to fund that out of the cash reserve?

**Mr Lynch**—Yes, that has been case.

**Senator SHERRY**—You said \$7 million in cash reserves. Where does that cash reserve stand at the moment?

**Mr Lynch**—We have a \$1.9 million increase sought, comprising member salaries increases and case finalisations of \$1.7 million. We are looking over the next two-year period to bring that cash reserve to an equal balance. So we are receiving appropriation in harmony with our case finalisations and general operating expenses.

**Senator SHERRY**—Yes, but you gave a figure of \$7 million for the cash reserve. In what year was the cash reserve standing at \$7 million?

**Mr Lynch**—That was 2000-01.

**Senator SHERRY**—Where does it stand now—approximately?

**Mr Jones**—The budget this year anticipates a total cash reserve at the end of this year of \$3.8 million. We are holding about \$500,000 at any one time to cover our general operating expenses and about \$3.4 million is currently held by the Department of Finance and Administration.

**Senator SHERRY**—Thanks.

**Senator KIRK**—Turning to the TPVs again, is it possible to provide the committee with a breakdown, by country of origin, of all of the applicants for further protection?

**Mr Blount**—Yes, we have that. Of the applications for further protection visas that have been received to date by the tribunal, Afghanistan accounted for 387, Iran for one, Sri Lanka for one and Turkey for one. That was as at 31 January.

**Senator KIRK**—Are those figures finalised decisions?

**Mr Blount**—No, those are applications. There have been 30 finalisations so far—they only began processing from November onwards. I think 28 of the finalisations have been for Afghan cases.

**Senator KIRK**—How many of those have been successful?

**Mr Karas**—Twenty-three have been set aside, six have been affirmed and one has departed Australia.

**Mr Blount**—That is the figure for the 30 overall. I do not think we have got a breakdown for Afghanistan within that with us, but they are predominantly Afghan, as I mentioned.

**Senator KIRK**—So of the 30, 23 have been set aside?

**Mr Karas**—23 have been set aside, six have been affirmed and one has departed. That makes up the 30 that John has referred to.

**Senator KIRK**—Have there been any applications for further protection for a TPV frozen in the system?

**Mr Karas**—Not by the tribunal. If I could just refer back to the number of cases that have been received, about 127 cases are still awaiting constitution in the further protection visa area, 233 are presently with members and the 30 that I referred to just a moment ago have been finalised. So we are working through the further protection visa class or category. I

might add as well that members have received specific training in relation to further protection visa cases.

**Senator KIRK**—So there are approximately 350 cases that are still in the system. Is that correct?

**Mr Blount**—Yes, 360 are still with the tribunal—most of which are with members in processing.

**Senator KIRK**—Is there any breakdown as to the country of origin of those 360?

**Mr Blount**—Of those 360, two of those that have been finalised were from those other countries. So all but one of the 360 would be Afghan.

**Senator KIRK**—Since 1 July how many applications by East Timorese have progressed through the system?

**Mr Blount**—Virtually none. We had a figure a little while ago which we provided for a previous question. I do not think we have had any new ones since. As of mid-November, we had only received three East Timor lodgements this financial year. If we have received any since, it would only have been one or two, I would think, but we can get that information for you.

**Senator KIRK**—There have been only three lodgements. What about the remainder? Have there been no applications from East Timorese in the community?

**Mr Blount**—The situation as of late November was set out in answer to a previous question. At that stage there were only 16 active cases before the tribunal, so most of those would have been dealt with in the meantime. The bulk of the cases had been lodged during the previous financial year and had been dealt with. The total number finalised this financial year to 31 January was 209, which is only 14 more than had been finalised in late November. So they have really trickled off and there is only a handful still being processed in the system.

**Senator KIRK**—How many of those 209 were successful?

**Mr Blount**—None have been set aside this financial year. In the previous financial year, during which there were 450 finalisations, only two were set aside.

**Senator KIRK**—Has there been any recognition by the RRT of claims of persecution from the Iran Shiite government of the 40 Iranian followers of the ancient Sabeian religion—Sabeian Mandaeans, I think they are called?

**Mr Blount**—My understanding is that there have been cases involving some Sabeian Mandaeans that have been successful and some that have not. As in most claim categories, it will depend upon the particular circumstances in the particular case. I do not have any figures on that with me.

**Senator KIRK**—Would you take it on notice to provide those to the committee?

**Mr Blount**—We can check that and see what we can find. We normally record them in our statistics by country rather than by claim group, but it may be possible to find out.

**Senator KIRK**—That would be helpful, thank you. I have now completed my questioning on MRT and RRT. Thank you, gentlemen.

**Senator BARTLETT**—How much is the fee people are liable for if they fail in their appeal to the tribunals? I think it is still \$1,000.

**Mr Karas**—The fee for an application for review by the Migration Review Tribunal is \$1,400. If you are unsuccessful in the Refugee Review Tribunal, a \$1,400 fee is now also applicable there. A Senate committee last year recommended that it be increased from \$1,000 to \$1,400 to bring it into line with the MRT.

**Mr Lynch**—That is on a failure.

**Mr Karas**—That is on a failure.

**Senator BARTLETT**—Does that count as revenue for the tribunal or does it go to the department?

**Mr Lynch**—That is an administered item, so it goes to the department.

**Senator BARTLETT**—So it is not reflected in here?

**Mr Lynch**—It is reflected in our PAES, but it is essentially returned to the fiscus.

**Senator BARTLETT**—Is it actually listed as revenue in your estimates?

**Mr Lynch**—Table 3.6 on page 187 sets out the actual sources of non-taxation revenues, fees, at \$5.3 million with a revised figure of \$5.5 million. That is carried forward in out years based on the forecast of a stable case load.

**Senator BARTLETT**—Is that money actually received as opposed to debts incurred?

**Mr Lynch**—We do work hand in glove with the department in the recovery of fees, and to my understanding this reflects the recovery of fees. But this is not an appropriation or operating expense that we rely on. It is to basically guarantee compliance with regulation 4.31, to apply the fee post finalisation in the negative. I might have to take your question on notice unless my colleague Mr Jones can add to that.

**Mr Jones**—Table 3.6 I think reflects that revenues expected or estimated are \$5.5 million. The expenses included a write-down of \$5.3 million, which is basically the money that is not recovered.

**Senator BARTLETT**—Does it just come into the tribunal and then go straight out again to the department?

**Mr Jones**—We actually have an arrangement with the department where the department collects the fees on our behalf and we pay the department for its services.

**Senator BARTLETT**—So it is a book entry, in effect; balances are owed?

**Mr Jones**—Yes. We have got the responsibility for reflecting it in our accounts, but we work with the department in the actual collection process.

**Senator BARTLETT**—Do you have any figures on the level of nonpayment? I am not sure if that is the best phrase for it. By that I mean people who are liable for paying a fee, particularly for the MRT, and then do not.

**Mr Lynch**—We do not have those figures with us, but we can provide them. I think the Senate report on regulation 4.31 certainly has some detail on nonpayment.

**Senator BARTLETT**—Is regulation 4.31 the RRT fee, or is it both? I thought it was just the RRT.

**Mr Jones**—This table is just setting up the fees on the RRT side. There is a complementary table on the MRT side.

**Mr Lynch**—It applies to the RRT, as I understand it.

**Senator BARTLETT**—I was just curious what the level of nonpayment, for want of a better phrase, with MRT is. I have seen some on the RRT, but I do not recall seeing any on MRT.

**Mr Jones**—On the RRT side it is in the range of 70 to 80 per cent nonpayment, and that is reflected in these accounts. On the other side, the MRT side, the fee is paid up-front. People do not have a valid application unless they pay a fee. So in that sense, unless the fee is waived under one of the provisions of the legislation, there is a 100 per cent collection rate.

**Senator BARTLETT**—In relation to some of the statistics given today and also out of your annual report, the MRT's average time for a decision to be made was, I think, 362 days. That is from memory; I do not have the annual report in front of me. That is a slight improvement on the year before. I know this has come up in previous hearings, but is there a goal, an aim, for an average period between lodgment and determination?

**Mr Karas**—The average processing time for cases finalised by the MRT during the current financial year as at the end of last month was 45 weeks from registration of the case to its finalisation. This represents a reduction in the average processing time from the time of lodgment to finalisation with the Migration Review Tribunal, which was 52 weeks for the last financial year.

**Senator BARTLETT**—That is a fairly significant improvement.

**Mr Karas**—Yes, it is one of the things we are moving towards and, as the registrar flagged earlier, it is a constant job on the part of management to look to try to not only obtain efficiencies but also bring down the processing times for cases. I think it would be also true to say that the average age of the active cases on the MRT at the end of last month was about 36 weeks, so it is something that we are constantly looking at.

**Senator BARTLETT**—I mentioned some of the figures in the MRT report in a speech last Thursday evening. I do not know whether you have had that drawn your attention; I imagine you have more important things to do than listen to what I am talking about in the Senate on a Thursday night. If I was reading them properly, the figures suggested that for the MRT there was an overall set-aside rate of 43 per cent, and that included, for example, 64 per cent for visitor visas and 63 per cent for partner visas. That strikes me as quite high. It is probably more a question for the department as to why there is so high an error rate, for want a better word. That level of error or changes in decisions seems to me to be fairly inefficient. Am I missing something or is that undesirably high from your point of view? Is there anything you do, particularly if you have an error rate of 64 per cent in visitor visas? Obviously some others are down to 30 per cent. Are there any particular things that flow back to the department about them obviously getting things repeatedly wrong that are leading to this sort of high error rate?

**Mr Karas**—The department usually deals with the applications that come before it very quickly, particularly the overseas ones. If we could just refer to the visitor visas that you have highlighted, by the time the matter comes to the tribunal there has been quite a period of time that has passed. In the meantime, usually you will find that the applicant for review has provided much more information to the tribunal than may have been provided in the first instance to the department. At the same time the members who were considering a particular case would find that with the lapse of time there is more information before them. The tribunal also, as you most probably are aware, under the legislation does have the right to write to an applicant seeking further information et cetera. It may be that by the time the member and the tribunal comes to make its decision it has before it material which the original decision maker may not have had.

**Mr Lynch**—May I add to that. In terms of liaison with the department, we certainly do discuss important policy issues, and set-aside rates are certainly on our agenda. We have our formal and informal consultations with DIMIA. We do examine reasons, and often there are explanations and justifications for particular statistical outcomes. Certainly time lag is one of those. We are looking to ensure that we reduce the processing time in the MRT to a time that is closer to the primary decision because that is when the evidence that the applicant supplied at primary stage is freshest. Often it works in favour of the applicant if there is a delay. We are looking to streamline decision-making processes and decisions themselves so that we deal with cases essentially on the same evidence that is available to the department. However, that has not been possible with the cases on hand that we have carried for some time, but we are making quite an impact on the cases on hand. We anticipate putting a greater dent in that backlog with the appointment of new members that occurred last year.

**Senator BARTLETT**—Is there any particular reason why the set-aside rate for the protection visa cases is so dramatically different? It was under six per cent last year. There may be some anomalies from last year perhaps with the East Timorese. I think the year before it was about 12 per cent, so it is still very different from a rate in the 40 per cent range.

**Mr Blount**—I think it is very hard to be categorical about that, but I suspect that it is the obverse of what has already been referred to with the MRT cases. That is to say, the process for determination of protection visas in the department is a fairly considered and deliberate process with a good deal of information at hand. Therefore, many of the set-asides that then take place may be the result of differing information rather than different views about it. Nonetheless, there is probably less of an impact of additional information, particularly about an applicant's circumstances, than there is with the migration visas. Of course, the set-aside rate for the RRT is also very variable from country to country, but the overall rate has certainly been relatively low over the years. In recent years it has probably lower than in the early years, reflecting substantial improvements in the substance of the departmental decisions over that time.

**Senator BARTLETT**—Are you looking at those magic ingredients to improve the substance of the departmental decisions in all the other areas as well? What sorts of things can improve the substance of departmental decisions in all the other non-refugee areas? It would save yourselves a lot of time.

**Mr Blount**—I cannot comment on non-refugee areas, but I think that the purpose of an administrative review, among other things, is to provide a feedback loop to decision makers to assist the overall quality of decisions. Certainly my observation over the 10 years that I have been involved with protection visa review is that that has been a significant factor over that period.

**Mr Farmer**—In relation to visa issues generally, the department has worked very strenuously over a period now of seven or eight years to transform the way in which it issues visas. There are a few things worth while reflecting on when we look at our global visa operation, particularly in comparison with the visa operations of our, if you like, comparator immigration services. Firstly, we have gone very heavily, as you know, into reforms which enable us to issue the great majority of our visas electronically. The other very significant element of the reform in our operations has been the repatriation of very significant work loads to Australia in order to enable us to focus our resources overseas on issues where those resources are definitely required overseas. There are many things that we can do in Australia that do not require work overseas.

That has meant a very significant change in the way in which we deal with our clients overseas. One example is tourist visas. I do not have the figures with me, but we could get those if you are interested in them. Over the last year or so our approval rates for tourist visa applications have gone up—that is, we are saying yes to more people than we were—and our non-return rates in Australia have gone down. In other words, the people we are saying yes to more often are breaking their visa conditions less often. So I think we are in effect keeping out people who do not have a bona fide reason to travel but we are saying yes more often to people who do have a bona fide reason to travel. That is not just happenstance; it is the result of a lot of work, including with community groups in Australia, to achieve what we think is overall a very much improved performance. So the concern that underlies your questions is our concern too. We want to do our job better, to provide better customer service while also maintaining the integrity of the border.

**Senator LUDWIG**—On page 3 of the annual report of the Migration Review Tribunal, it talks about financial performance. The tribunal is currently replacing, or will replace, the current purchasing agreement this year. Has that negotiation commenced?

**Mr Lynch**—Yes, it has.

**Mr Karas**—Yes.

**Senator LUDWIG**—Where is it up to?

**Mr Lynch**—It is probably midway.

**Senator LUDWIG**—Has a figure been agreed to or established as to what the agreement will be?

**Mr Lynch**—Not yet.

**Senator LUDWIG**—I note that it was \$18.4 million, which was out of \$20.7 million, and there was a \$2.3 million surplus. Is that right?

**Mr Lynch**—Yes, that is correct.

**Senator LUDWIG**—What happens to the \$2.3 million?

**Mr Lynch**—In terms of our operating expenditure, that ought to be in balance. We have come up, on a forecast for this year's budget statements, to a small operating surplus of about \$800,000. DOFA will allow us to absorb that in our operating expenses for this financial year. The additional estimates reflect that we are looking for a total of \$21.9 million this financial year. That is an increase of \$1½ million which, with previous years outputs, gives us an increase of \$400,000. There were 9,714 cases completed last financial year. That gives us a total increase of \$1.9 million on last year.

**Senator LUDWIG**—Thank you.

**CHAIR**—I do not think there are any more questions for either of the tribunals. I understand you have a document to table in relation to a corrigendum to page 159.

**Mr Lynch**—Yes, I was looking for a convenient moment. I have made available corrigenda for table 3.5 of the MRT's financial statements relating to departmental non-financial assets, which is a summary of movements. The reason for the corrigenda is that the four rows of the table titled 'Additions', 'Depreciation/amortisation expense', 'Self funded' and 'Total' do not contain the relevant data in the published PAES, and we apologise for that. What we have sought to table with you today is a table that reflects the data which was omitted, and we again apologise for that.

**CHAIR**—Thank you, Mr Lynch. That has been distributed to committee members and formally tabled on behalf of the Migration Review Tribunal. I do not believe there are any further questions in this area, so I thank Mr Karas and the officers of the tribunals for their assistance to the committee this morning.

[10.00 a.m.]

#### **Department of Immigration and Multicultural and Indigenous Affairs**

**CHAIR**—We will move back to the consideration of additional estimates for the body of the department. I ask the relevant officers to come to the table.

**Senator SHERRY**—I am not sure whether this fits into this area under internal product. I want to go through the budget estimate cost for each detention centre.

**Mr Farmer**—We will ask the officers to come to the table.

**CHAIR**—There must be a tardis outside. Senator Sherry, you might want to repeat that question now that the officers are at the table.

**Senator SHERRY**—I want to run through some budget estimate costs for some of the detention centres. Could we start with the Christmas Island detention centre first. What are the proposed budget estimates over the forward estimates for both the construction and running of the Christmas Island facilities?

**Mr Davis**—I do not have that material here in front of me to give you those figures, but certainly they are available in the Public Works Committee submissions that were made by the department and the Department of Finance and Administration.

**Senator SHERRY**—We have discussed Christmas Island in some detail at previous estimates. What is happening? Have there been any cutbacks in the forward estimates of both

capital and recurrent expenditure in respect of the operation of the Christmas Island detention centre?

**Mr Farmer**—Part of our problem is that, on the capital side, the centre is in effect being built by the Department of Finance and Administration.

**Senator SHERRY**—I understand that.

**Mr Farmer**—In terms of the details there I do not think that we have current—

**Senator SHERRY**—Okay. Let us put that issue aside. The running costs would come within the responsibility of DIMIA. What are the forward estimates for running costs at this stage? Are there any?

**Ms Gray**—Those running costs would form a part of the output 1.5 appropriation. I do not have the breakdown by centre within 1.5. If you refer to page 34 of the portfolio additional estimates statements, you can see that the appropriation for offshore asylum seeker management is \$45.6 million. We can get the detail of the Christmas Island component.

**Senator SHERRY**—Whilst we are dealing with that, you have said that that is the offshore component?

**Ms Gray**—Yes.

**Senator SHERRY**—Could you give me the breakdown for the other centres? That obviously would include Manus Island and Nauru. Are they the other two centres included in that figure?

**Ms Gray**—Yes.

**Senator SHERRY**—Are the estimated operating costs being revised at the present time?

**Ms Gray**—The estimates will be updated in the budget process.

**Senator SHERRY**—Are you going through a process of reviewing those estimates of the forward costs?

**Ms Gray**—Yes, that is a requirement for our comeback to the 2004-05 budget process.

**Senator SHERRY**—If you could take it on notice to give us the breakdown for each of those three centres, that would be appreciated. I have some more detailed questions about the operation on Manus. Would those figures include the contractual obligations that may be entered into in respect of private contractors?

**Ms Gray**—That is right, yes.

**Senator SHERRY**—So it is the all-up estimated running cost—there are no other costs, on-the-ground costs, that are not included in those forward estimates for those three centres?

**Ms Gray**—That output 1.5 appropriation is a quarantined pool of money deliberately set aside to cover those three centres.

**Senator SHERRY**—I would like to come back to the issue of capital costs. I understand the issue on Christmas Island. Do we have any forward estimates for any capital costs at the facilities on Manus and Nauru?

**Ms Gray**—No.

**Senator SHERRY**—There aren't any—or we just don't have any estimates?

**Ms Gray**—We do not have any capital costs.

**Mr McMahon**—All our expenditure in respect of offshore centres are expense. We have no capital, and never have had any capital, in respect of the offshore centres.

**Senator SHERRY**—So the governments of PNG and Nauru are responsible for those capital costs—indirectly paid by us, as I understand.

**Mr McMahon**—Actually, IOM is responsible for the costs. We recoup the expenses of IOM, and amongst the expenses of IOM, particularly in respect of Manus, have been some what we call legacy projects—which are relatively small projects but are of the nature of capital. Similarly, there has been expenditure in the nature of capital on Nauru, but because we are not going to maintain control of the assets they are actually expensed.

**Senator SHERRY**—I seem to recall a discussion about capital that was required for the centres but directly was of assistance to the general populace in those areas.

**Mr McMahon**—That is in respect of Manus. We have no equivalent in respect of Nauru. In respect of Manus we undertook some legacy projects. The nature of those projects was beneficial both to the operation of the centre and the local population—for example, continuity of power was obviously of benefit to the centre and to Manus province. Consequently, for example, we financed the generator.

**Senator SHERRY**—Yes, I seem to recall that being one of the issues. I would like to return to these estimated costs of operation. I am assuming, I hope rightly, that the forward estimate costs in respect of operations include contracts already written for private contractors?

**Ms Gray**—Yes, that is my understanding.

**Senator SHERRY**—I have some more details about the contractors, but I will get to that later. I would like to return briefly to issues to do with Christmas Island. At what stage is the Christmas Island construction and possible operation?

**Mr Davis**—We are passed the sign-off of advanced design; we are in detailed design phase. We have presented material to the Public Works Committee and the Public Works Committee has reported on the matter. Our current understanding is that tenders are likely to be let on the work later this calendar year. The exact timeline is a matter for the department of finance.

**Senator SHERRY**—In terms of the department, though, is there any projected date for operation of the centre yet?

**Mr Farmer**—We already have a small capacity on Christmas Island. I just wanted to make sure you were aware of that. In terms of the centre being built, that is clearly some time off.

**Senator SHERRY**—I understand that, Mr Farmer. I am just interested to know whether the department has a projected date when the centre can be brought online, be commissioned or become operational. When will the upgrading of the facilities happen?

**Mr Farmer**—I am not aware that we have anything that would in effect pull a trigger for us to start operationalising the plans. In other words, I think the construction phase goes into

the future beyond the point where we have to take immediate action. We are in effect in the preparation and the consultation phase with Finance.

**Senator SHERRY**—Presumably, you are giving some thought to the operational consequences.

**Mr Farmer**—Absolutely, and that informs the consultations that we have with Finance, because our role there is essentially to comment on design and other requirements that we will have in order to operate the centre. So our minds are very much on the operational needs that we will have. We are not at the stage of gearing-up operations.

**Senator SHERRY**—Is there any figure as yet in the forward estimates for the operation of an offshore centre on Christmas Island?

**Mr Davis**—We have an allocation for the existing temporary facility for operational costs. That allocation will transfer across to the new centre, but until we are further down the track of knowing the exact specifications of the new centre that figure will not be revised or re-examined.

**Senator SHERRY**—I understand that. Presumably it would be an additional figure because it is a bigger facility.

**Mr Davis**—In this area it is highly dependent on the number of detainees we have at any one point in time. We go from situations of having nobody in the facility, as we did early last calendar year—for four months we had no-one in the Christmas Island facility—to the situation of the boat arriving mid-year. There is an allocation, but there is quite a deal of uncertainty as to the exact requirement. We will be examining that issue and including, at the time, the experience of the numbers of arrivals at that stage. We have had no arrivals since the middle of last year to be accommodated on Christmas Island. It is very difficult to give you projections other than to say we have an allocation for the temporary facility which we will transfer across and we will re-examine closer to that point in time the exact need.

**Senator SHERRY**—I understand that, but we are making a substantial investment in a capital upgrade and expansion and we may face the situation where there may not be the numbers of refugees to put in there.

**Mr Davis**—Indeed.

**Senator SHERRY**—Coming to mainland Australia, what is the stage of the development of the Coonawarra facility in Darwin?

**Mr Davis**—The Coonawarra facility is a contingency facility put together some time ago in case of further boat arrivals. At the moment the facility is mothballed from our perspective and maintained ready for use if it is ever required. It is used by the defence department on an ad hoc basis, as I understand it, for exercises, for housing soldiers and for other things. But, primarily, it is there available and ready for use if further boat arrivals require it.

**Senator SHERRY**—Just briefly, what facilities do we have at Coonawarra?

**Mr Davis**—Predominantly, Coonawarra is accommodation modules. It is designed as a short-term reception facility whereby some initial processing could be undertaken and then the expectation is that detainees who may be held there would be transferred to other centres

on the mainland if required. The capacity—I do not have the figure off the top of my head—is something like 600, but it is very much designed for short-term reception purposes.

**Senator SHERRY**—So it has a capacity of 600. I assume there is no-one there at the moment, from what you are saying, but it is short term.

**Mr Davis**—That is right.

**Senator SHERRY**—But presumably there would be some base level of staff to maintain the facilities.

**Mr Davis**—We do not have any staff on site per se. We do maintenance through contractual arrangements. The defence department predominantly provide us with some maintenance support, which we pay them for. I am just advised that the capacity is 650.

**Senator SHERRY**—I am a bit surprised that there is not someone on the facility, at least one person, for security or general maintenance to make sure that you do not have people trespassing and in case of vandalism and those sorts of things.

**Mr Davis**—It is on a defence facility site so all those issues, from our perspective, are addressed by the Department of Defence.

**Senator SHERRY**—Are the Department of Defence paying you rent when they use it?

**Mr Davis**—My understanding is that they do not, but I can check that. They certainly are asked to make good if they use it—to clean it and things of that nature after they have used it so that if it is ever required by us it is ready for immediate use.

**Senator SHERRY**—Are there any other facilities in Darwin, or just Coonawarra?

**Mr Davis**—No other detention facilities.

**Senator SHERRY**—I am about to do an Australia-wide ‘tour’ and I want to attempt to do it logically, so let us move from Darwin to Brisbane. Is there nothing in between in terms of facilities in Northern Australia?

**Mr Davis**—No.

**Senator SHERRY**—What is the status in Brisbane at the moment?

**Mr Davis**—The consultation processes have been undertaken and the matter is with the minister for the next steps.

**Senator SHERRY**—This is a facility the department is overseeing in terms of its development?

**Mr Davis**—At this stage of the process we are the ones who are taking forward the matters within government, yes.

**Senator SHERRY**—What is the proposed capacity for Brisbane?

**Mr Davis**—A centre which has a capacity commencing at around the 200 mark, and capacity to expand to around 550, so the central facilities in the centre are being built from the start to be able to manage that longer-term capacity. It is a stage 1, stage 2 type of development process.

**Senator SHERRY**—So we have got the land. Have the buildings commenced yet in terms of construction?

**Mr Davis**—No.

**Senator SHERRY**—Projected building date?

**Mr Davis**—We are still in the design phases of that facility and we do not have precise dates for construction.

**Senator SHERRY**—Are there any moneys in the forward estimate years for construction of anything?

**Mr Davis**—Yes.

**Senator SHERRY**—What are those figures?

**Mr Davis**—I do not have the figures in front of me. Can I take that on notice and provide that?

**Senator SHERRY**—Okay. Presumably we have got an estimated start for construction if there are construction figures in the forward estimates.

**Mr Davis**—The allocations were made out of a budget measure of several years ago. Some of the time lines may well need to be adjusted, but there are allocations in the budget, in forward estimates, for the facility.

**Senator SHERRY**—Can you give me that detail on notice, thanks. Are there any figures in the forward estimates for the cost of operation of the Brisbane centre?

**Mr Davis**—Not explicitly. The way the detention operational budget works is we have a budget envelope or an allocation to cover all of our facilities. Because we have moves between facilities and we can have spikes in levels of activity we do not actually make individual allocations to centres. The situation with the Brisbane facility relates to what it will be replacing. We do have access to a state prison wing in Brisbane which we use for male detainees and from time to time we do hold detainees, particularly women and children, in motels or have other informal arrangements. Also, we do transfer detainees interstate from Brisbane—to Villawood and other places. So in terms of the operating budget envelope there are some existing operational allocations which will transfer across to a Brisbane centre when such a centre is available.

**Senator SHERRY**—Is the Brisbane centre to be a reception and processing centre, detention centre or residential housing project?

**Mr Davis**—No, the centre is to be an immigration detention centre, predominately for visa overstayers or those who do not comply with visa conditions—that is, compliance type activity. That is the focus of operation of the intended centre.

**Senator SHERRY**—You actually had jumped to a question I intended to ask, at least in part: are persons from Brisbane, and other parts of Queensland, not held in Brisbane? Are they transferred?

**Mr Davis**—Some are held in Brisbane. We have a wing of the Arthur Gorrie state prison which is dedicated for our use for immigration detainees. It is a small wing.

**Senator SHERRY**—We are paying rent for that wing, presumably.

**Mr Davis**—We do pay the state government for access to that, yes.

**Senator SHERRY**—Do you have the forward estimate cost of the rental that we are paying for that?

**Mr Davis**—The costs vary. Currently discussions are under way with the state government on forward estimate costs associated with access to that wing. The figures range between \$1 million and \$2 million per year to cover the costs of the detainees we hold there.

**Senator SHERRY**—If you could give us some more accurate information on notice, I would appreciate that. Is there anything else in Brisbane that we are using?

**Mr Davis**—We use motels from time to time, for women and children in particular, and we also have been known to access the women's prison.

**Senator SHERRY**—Again I would appreciate the details of the running costs—that is, the rental—we would be paying in respect of the women's prison and the motels.

**Mr Davis**—We tend to pay those on a nightly basis—a per-head per-night type basis—as we do in other states. Where we access state facilities we generally have arrangements with state governments to pay on a per-night per-head basis. In terms of motels, likewise it depends on how long they are held for. We also do transfer detainees to Villawood from time to time.

**Senator SHERRY**—Are we using any other facilities in Darwin at all?

**Mr Davis**—We have some involvement with the fisheries organisations on illegal fishers, who can transfer after a period into immigration detention. There are discussions with them going on. There have been people held on their boats at various times. We have also accessed the state facilities in Darwin. I do not know the details there of compliance and visa breach activities, but we have been known to access the state facilities for some of those people.

**Senator SHERRY**—And presumably we are paying some sort of rental to the Territory government?

**Mr Davis**—Yes.

**Senator SHERRY**—Again, perhaps you could give me the breakdown, both historical and what the breakdown is on the forward estimates, if any, for the use of those facilities. Let us move from Brisbane south—

**CHAIR**—Senator Sherry, can I clarify that you will not be pursuing these questions in output 1.3, where they might otherwise be, in relation to mainland detention centre discussions?

**Senator SHERRY**—There might be some other aspects of detention centres, particularly the contractual arrangements, to discuss then. I am happy to take your guidance and hold these details over until then if that is the most convenient thing to do.

**CHAIR**—I do not want to get into a position where we are under the attractively named concept of 'internal product' discussing in great detail the mainland detention centres—where other senators will inevitably have questions—and then have to double back when we get to output 1.3.

**Senator SHERRY**—I wanted to do my geographic tour in one logical sweep.

**CHAIR**—It is a very large continent—this could take a very long time.

**Senator SHERRY**—I am happy to leave the further detail of the tour to a later program.

**CHAIR**—We will alert Qantas that you are on the way!

**Senator SHERRY**—We will stop at the Brisbane Line.

**CHAIR**—How very convenient!

**Senator SHERRY**—I turn now to the issue of private contractors, agencies and consultants. All of the existing contracts are listed in the annual report, I assume. Are there any exceptions or updates?

**Mr Farmer**—We will see if the relevant officer is here.

**Senator SHERRY**—Would this be more convenient in another area?

**Mr Farmer**—No, it is an internal product. But if you have other questions it might be better to go on to them and come back to this.

**Senator SHERRY**—I have a reasonable amount to ask on these consultancies. I do not think I have anything else on internal products. It is mainly around the consultancies.

**Ms Gray**—I have some information on consultancies, but I am not sure if it is at the level of detail you will be wanting.

**CHAIR**—We will see if Ms Gray can assist while we obtain the other officer.

**Senator SHERRY**—Is the list of consultancies in the annual report up to date? There might have been some adjustments since the annual report was produced.

**Ms Gray**—I understand that it is an up-to-date list for the 2002-03 year.

**Senator SHERRY**—Chair, Mr Farmer has just indicated that there are some corporate governance people on the way, so I propose that we come back to this area when they are here.

[10.27 a.m.]

**CHAIR**—Certainly. We will move to output 1.1, Non-humanitarian entry and stay.

**Senator KIRK**—Could the department advise the committee as to its estimation of the number of people who are in Australia illegally at present?

**Mr Farmer**—That really comes under output 1.3.

**CHAIR**—That is compliance issues, border control, visa overstays and so on.

**Senator KIRK**—I have questions in relation to people working in Australia illegally. Is that under 1.3 as well?

**Mr Farmer**—Yes.

**CHAIR**—We are now discussing Output 1.1, Non-humanitarian entry and stay, which canvasses areas like migration and temporary entry or visas.

**Senator LUDWIG**—Yesterday I asked some questions in respect of the Attorney-General's Department in relation to Omar Abdi Mohamed. This morning I wanted to ask you about the entry into Australia of the Somali born US national. This was a matter I canvassed yesterday. As I understand it, on 22 January 2004 the Office of the US Attorney for the Southern District of California issued a news release announcing the arrest in San Diego of Omar Mohamed and his indictment on two counts of making false statements in an immigration application. Are you aware of that matter?

**Mr McMahan**—Yes, we are aware of it and we have liaised closely with security organisations.

**Senator LUDWIG**—Thank you, I will not need to provide any further detail for background. To the department's knowledge, on how many occasions had Mr Mohamed entered into Australia prior to his arrest in Australia?

**Mr McMahan**—He has basically been in and out of Australia five times.

**Senator LUDWIG**—Do you have the dates on which he entered Australia?

**Mr McMahan**—On his first trip he was here from 29 December 2000 to 28 January 2001. He was then here from 25 July to 28 August 2001, and then from 14 December 2001 to 21 January 2002. He was next here from 24 February to 3 May 2003 and then from 27 September to 25 December 2003.

**Senator LUDWIG**—What visa class did he use? Was it a different one for each occasion or was it the same visa class for both exit and entry?

**Mr McMahan**—The visa class was in general a visitor visa.

**Senator LUDWIG**—Can you be more specific?

**Mr Rizvi**—Each time it was a subclass 676 visa.

**Senator LUDWIG**—Which one does that relate to?

**Mr Rizvi**—That is a visitor visa.

**Senator LUDWIG**—Were they all that?

**Mr Rizvi**—Each time it was a 676.

**Senator LUDWIG**—Where were they applied for? In which country?

**Mr Rizvi**—In the US, Los Angeles.

**Senator LUDWIG**—In each case he applied in the US to come to Australia on a visitor visa.

**Mr Rizvi**—To clarify that, he entered each time on a subclass 676. Each time that he got a 676 visa he applied for it at our Los Angeles office. He entered and left Australia five times but on two of those occasions he entered and left on the same visa. That was because that particular visa in that instance provided entry and departure for up to three months at a time any time over a period of 12 months. He only applied for a visa three times but he entered and left five times.

**Senator LUDWIG**—Which were the two times that he entered on the same visa?

**Mr Rizvi**—It might be best if I take that one on notice.

**Senator LUDWIG**—Thank you. The Director General of Security advised the committee yesterday that the first time this individual came to ASIO's attention was through media reports at or about 30 January 2004. Although he did not say this, the only media report I could find at or about that date was in the *Herald Sun* and was titled, 'Accused terror banker slips out of Australia'. Had the US authorities ever made inquiries to DIMIA about this particular individual prior to 30 January 2004?

**Mr McMahan**—Yes, they had.

**Senator LUDWIG**—What did they ask or what inquiries did they make?

**Mr McMahan**—It was not in a security context. As I understand it, it was in respect of their immigration status. They simply wanted to know their movements.

**Senator LUDWIG**—Which US authorities asked for that?

**Mr McMahan**—It was the US Embassy.

**Senator LUDWIG**—Did they cable you?

**Mr McMahan**—As I understand it, it was an approach direct to the department. It may actually have been an approach to AFP, who then accessed the information directly. But essentially at that stage it was simply a request. As a matter of fact, it has never changed. As far as I know, he has never been charged with any security related matters. He has only ever been charged with immigration matters. At that stage, I think it was about his immigration status. It was certainly nothing untoward. It was just a routine inquiry. I recall that at the time we could not confirm that it was the same person, because subsequent to that—the birth date is different. I think the advice given to the US Embassy was that there was no match, that there was a person with the same name, with similar details, who had come into Australia and exited a couple of times. And that was the end of the matter.

**Senator LUDWIG**—What date was that? Do you recall? Who was it by? Do you recall? Was it by the AFP or by—

**Mr McMahan**—I believe it was through the AFP.

**Senator LUDWIG**—Perhaps you could check that as well. But you think it was the AFP.

**Mr McMahan**—I can check that.

**Senator LUDWIG**—You think it was the AFP.

**Mr McMahan**—I believe it was the AFP.

**Senator LUDWIG**—How do they do that? Do they make their own separate—

**Mr McMahan**—They can do it in two ways. AFP—

**Senator LUDWIG**—In this instance, how did they do it?

**Mr McMahan**—I do not even know if we can indicate that conclusively. That was information that we were given about the fact that there had been an earlier inquiry. They do have the capacity to inquire directly into our systems. Alternatively, they may have used our help desk facility to do so. We have no record of that inquiry per se.

**Senator LUDWIG**—And you are not sure of the date they did this?

**Mr McMahan**—I think we may be able to do something on dates, but I do not have that information right in front of me.

**Senator LUDWIG**—Can you roughly say when?

**Mr McMahan**—I think it might have been—it was some time ago.

**Senator LUDWIG**—One month, three months, six months?

**Mr McMahan**—No, more. A year or two years.

**Senator LUDWIG**—If you can come back today with the date, that would be helpful. Are you advised when the AFP query your database? Is there a log kept? Do you charge them for that?

**Mr McMahan**—No. We would not keep a log on that routinely. We do have audit type functions within the system, but whether or not they would go back that far and capture that particular inquiry I do not know. In essence, a number of agencies can query our databases directly, including Centrelink, the tax office, AFP and ASIO. We would not normally monitor those, although the rules under which they access them are quite strict.

**Senator LUDWIG**—You do not build them for the access.

**Mr McMahan**—No, we do not.

**Senator LUDWIG**—That would then provide a billing code or a billing number and a date and time.

**Mr McMahan**—I can see where you are going, but no, we do not.

**Senator LUDWIG**—I am not suggesting it, either, Minister. Do you know who else was consulted about this inquiry? Was ASIO consulted?

**Mr McMahan**—I have no knowledge of that.

**Senator LUDWIG**—Can you check whether or not DIMIA consulted with ASIO about the inquiry from the US Embassy instigated by the AFP?

**Mr McMahan**—Yes, I can.

**Senator LUDWIG**—It would seem an unusual course. Is that something that happens every day?

**Mr McMahan**—It is not unusual for other countries to find out information about people who are potentially breaching migration or other laws or whether or not they are criminal. Certainly there would be nothing in an inquiry like that that would give us any signal that the person was of any particular interest. And, to be quite frank, at that time I got the impression that the interest was only in respect of immigration matters.

**Senator LUDWIG**—Was there a written record of the US inquiry?

**Mr McMahan**—We do not have a written record. Whether or not the AFP or whatever does—

**Senator LUDWIG**—So how did you record the inquiry? Did you write a file note and monitor it, or put it in the computer and log it?

**Mr McMahan**—We just followed up at the time. As to what information, it may have been ASIO that advised us of the inquiry or it could have been the AFP.

**Senator LUDWIG**—I have missed this separate link you have now raised. When did you talk to ASIO?

**Mr McMahan**—When the article came out.

**Senator LUDWIG**—Post the *Herald Sun* article?

**Mr McMahan**—Yes.

**Senator LUDWIG**—Did you talk to ASIO before the *Herald Sun* article?

**Mr McMahan**—No.

**Senator LUDWIG**—So you linked the *Herald Sun* article with the same inquiry that the AFP had made.

**Mr McMahan**—Yes. I will take on notice exactly how we came by that information.

**Senator LUDWIG**—All right. How did you get the impression that it only related to immigration matters?

**Mr McMahan**—I think it was the character of the request at the time. But I will undertake to set out the details of the information that we got in respect of that inquiry.

**Senator LUDWIG**—What was the character of the request at the time?

**Mr McMahan**—Movement records.

**Senator LUDWIG**—So they asked for movement records?

**Mr McMahan**—Correct.

**Senator LUDWIG**—How would that give you the impression that it was an immigration matter?

**Mr McMahan**—Because there were no security issues raised at that time.

**Senator LUDWIG**—Does the AFP regularly contact you about movement matters?

**Mr McMahan**—Very regularly.

**Senator LUDWIG**—So they would normally respond to routine immigration inquiries?

**Mr McMahan**—Yes.

**Senator LUDWIG**—That is what the AFP would do? It does not seem to me that that is what the AFP would normally do.

**Mr McMahan**—Yes, the AFP regularly consults us. We have a help desk of a couple of people who do nothing more than answer inquiries in respect of other agencies.

**Senator LUDWIG**—To DIMIA's knowledge, has the US made any inquiries of any Australian government agency about this individual? Was there contact between the US and Australian governments about Omar Mohamed prior to 30 January 2004?

**Mr McMahan**—We do not really know what happens in respect of other agencies.

**Senator LUDWIG**—I am just asking about this to your knowledge.

**Mr McMahan**—No.

**Senator LUDWIG**—I can check with those agencies as well. Clearly the AFP is one of the ones I will need to talk to. The US embassy made the request. Did it come via a US embassy phone call or on US embassy letterhead? Might another agency have instigated that that you are aware of?

**Mr McMahan**—That is the question I have taken on notice. I will try to deal with that.

**Senator LUDWIG**—So you also understand that I am trying to ascertain whether it was someone from the US embassy or whether you were aware that someone was requesting the US embassy to contact you?

**Mr McMahan**—I will give you the information we have about that particular request. It was not made directly to us. The information we had was in effect second-hand. I have answered the question correctly—that we do know that a request had been made.

**Senator LUDWIG**—After 20 January there was further exchange of information about this issue, was there?

**Mr McMahan**—Yes. We certainly then moved very quickly in conjunction with ASIO to provide them with information about the person that we had on our system.

**Senator LUDWIG**—Did you put Mr Omar Mohamed on a passenger movement alert?

**Mr McMahan**—We have, although it is not for interception purposes.

**Senator LUDWIG**—You might have to explain that to me.

**Mr McMahan**—We have an interest in the person's movement. In general when we put people on the alert system they are actually stopped. We would refer them to the secondary line, which is the immigration area of control. In this case we would not, because we basically have no direct immigration interest in that man.

**Senator LUDWIG**—You indicated that you provided additional information to ASIO. Why would you do that?

**Mr McMahan**—Routine. Essentially it had come up that there was a potential security interest in this person and we immediately liaised with ASIO about what information we had about the person. They had in fact already pulled out the movement records themselves and so they had most of the information by that stage, but we had information about the nature of his business in Australia and more details about his applications—how he came into Australia et cetera.

**Senator LUDWIG**—Who said there was a security interest?

**Mr McMahan**—That was the concern raised by the journalist. Then it was a matter for the security organisations to deal with directly between themselves as to whether there was.

**Senator LUDWIG**—Did you simply surmise there was by reading the article? Did you see the article?

**Mr McMahan**—I saw the article, yes. That is what basically triggered some of the discussions at senior levels between ASIO and us.

**Senator LUDWIG**—But, prior to that article, the information that you provided to the committee does not seem to indicate that you knew what it was other than being an issue. I am curious to understand how you identified it as a migration matter when nothing seems to have suggested it was. If there was a US embassy request through the AFP for information, it could have been a criminal matter or it could have been anything. I am not clear on how you surmised it was a migration matter, especially if it came from the AFP.

**Mr McMahan**—That was the accusation in the news article.

**Senator LUDWIG**—No, this was prior to that, when the AFP—

**Mr McMahan**—That was some time before. I do not believe it was in the context of a security matter but I have already undertaken to come back to you on that.

**Senator LUDWIG**—If it came from the AFP and you knew at the time that it was also a matter instigated by the US embassy, although you may not have known the agency behind it, I am having trouble understanding why you would surmise immediately that it was a migration matter; it could have been a number of issues.

**Mr McMahan**—If it were a security matter, it would normally come through the security organisations. The AFP deals with criminal matters in general. But at the time when the subsequent inquiries were made, of course, we did not immediately know of the interest by the AFP. That unfolded over the next couple of days, after the article.

**Senator LUDWIG**—But in truth you really did not know whether it was a migration matter or a criminal matter when it was first raised?

**Mr McMahan**—No, we would have had no definitive basis for dealing with it. I believe there had already been some discussions by that time at more junior levels but certainly I engaged ASIO because of the reference to the security matter.

**Senator LUDWIG**—When the US embassy advised the AFP and the AFP advised you about Mr Mohamed, was a visa asked for after that date? Was it applied for by Mr Mohamed?

**Mr McMahan**—I would have to check the precise timing of that. As I recall, this was maybe 12 or 18 months ago. We will just have to take the details and work our way through them.

**Senator LUDWIG**—All right. So perhaps this exchange has been helpful to clarify what detail we are after.

**Mr McMahan**—I do note again that the answer back was that there was no match.

**Senator LUDWIG**—But then you indicated there was a similar match and indicated who the person was?

**Mr McMahan**—Yes.

**Senator LUDWIG**—Did you assume it was the same person or a different person? Surely you would have had a high level of confidence that it was the same person.

**Mr McMahan**—We were not in the decision making loop at that stage. The information was provided—

**Senator LUDWIG**—Back to the AFP?

**Mr McMahan**—Or the AFP accessed it directly.

**Senator LUDWIG**—Perhaps you could clarify that too.

**Mr McMahan**—It is best to leave this one alone, I think, until I can get some clarification.

**Senator LUDWIG**—But then how could you definitely identify him on 30 January? If, as you said, it was a non-match then how did you identify the same person on 30 January?

**Mr McMahan**—We had exactly the same issue except we had a little bit more information. When we examined it, we had information from the article, which included the fact that the person had moved in and out of the country a number of times. We did not conclude that it was the same person until we got separate matching information. It continued to be the case that the date of birth was different from what we had been advised and therefore there was technically no match on our database.

**Senator LUDWIG**—What separate matching information did you then use?

**Mr McMahan**—We basically made the link with the spouse.

**Senator LUDWIG**—How do you do that? What other matching data provides you with that ability?

**Mr McMahan**—We pull down information from a visa; I think there may have been some information about visiting a spouse. One way or the other we identified that there was a spouse, and the address on the incoming passenger card was the same as the address of the spouse.

**Senator LUDWIG**—All right. The *Herald Sun* article suggested that Omar Mohamed had a wife and children in both the US and Australia, and that information that came to your attention was sufficient to then provide the match for the processing of Omar Mohamed through your immigration centre—is that what you are saying?

**Mr McMahan**—Yes.

**Senator LUDWIG**—Did that come to your attention during the other processing you had been doing when he had been coming in and out? Was that information available to you then? Were you aware that he had a wife and of the address?

**Mr McMahan**—We have to take that on notice.

**Senator LUDWIG**—Was the wife on a visa?

**Mr McMahan**—No, the wife is an Australian citizen.

**Senator LUDWIG**—Had she made an application for a visa?

**Mr McMahan**—She does not apply for visas.

**Senator LUDWIG**—All right. Thank you, Chair.

**Senator BARTLETT**—I would firstly like to go to a few figures on administered revenue in the additional estimates statement on page 29. The increase in revenue from applications for student visas was a moderately significant revised amount. What was rationale for that? Was there a greater number of applications than expected or was there some change that I have forgotten about?

**Mr Rizvi**—That would be an increase in the expected number of applications. The last time there was a fee rise associated with the student visa application was, I think from recollection, 1 July 2003.

**Senator BARTLETT**—Is there any particular reason why there are that many more—seven or eight per cent?

**Mr Rizvi**—The student visa program has generally been on a strong growth path for the last decade and that is just a reflection of that continued growth.

**Senator BARTLETT**—I also note what is probably small in monetary terms but in percentage terms it is a 25 per cent decrease in applications for migration agent registrations. Does that mean there are fewer people registering than we anticipated?

**Mr Rizvi**—There has been some drop-off in the number of initial registrations, yes.

**Senator BARTLETT**—Nothing that raises any alarm bells or pats on the back?

**Mr Rizvi**—It does raise some concerns because that is how the MARA is funded—through that fee regime. It does raise some concerns about whether MARA will have enough money in the future to continue to deal with the volume of complaints it is getting. That is something that we will be consulting on with the MARA.

**Senator BARTLETT**—I noted there were also anticipated fines from employer sanctions that did not eventuate at all. What is the explanation for that?

**Mr Waters**—The reason for that is that the regulations required for the sanctions have not been introduced into the parliament.

**Senator BARTLETT**—So they have not been done yet?

**Mr Waters**—We simply do not have the power at this point in time to do that.

**Senator BARTLETT**—So those regulations still have not been introduced yet?

**Mr Waters**—The plan is to introduce them but it will not be in—

**Senator BARTLETT**—It is not something the Senate is holding up?

**Mr Waters**—No.

**Senator BARTLETT**—Not that we ever do! I note also a very significant hike, in percentage terms anyway, in terms of penalty payments by passenger carriers for breaches of section 229. I am presuming, without looking up the act, that section 229 is to do with people arriving without proper documentation.

**Mr McMahon**—Just going back to your previous question, the reason why the fines for employer sanctions have gone to zero is that—and this is really a bit of an anomaly; we should have fixed this up, I think, before we went into this budget—in effect there was a schema which had been proposed by the government and which had basically a fault based and a strict liability based process. It had been anticipated that there would be fines introduced for employers. In effect, that has not yet happened. Consequently, we have zero-ed it out in the estimates. The next question was about the forfeited bonds, was it?

**Senator BARTLETT**—No, the penalty payments by passenger carriers. It was quite a large percentage increase.

**Mr McMahan**—The reason why that has gone up is that we were introducing APP—extending APP this year. If you go back a couple of years—

**Senator BARTLETT**—APP is?

**Mr McMahan**—Advanced passenger processing. That is essentially where people are precleared when they board. The assumption was that, in preclearing them, we would effectively eliminate a lot of the undocumented arrivals et cetera, and that in fact has happened. Essentially, if you go back to two or three years ago these fines were up around the \$22 million mark. Even last year it was about \$7 million. What we effectively have done for this budget, anticipating that there would be a dramatic drop-off in this revenue estimate, is drop it right down. But in fact the implementation has not been as rapid as we thought. We are now up to 96 per cent of people who are APP, but, irrespective of that, we are still getting some documented arrivals. It appears to be an increase when in fact it is a significant decrease from last year. It was about \$7½ million last year and it was higher the year before.

**Senator BARTLETT**—So there has not been a hike in the number of undocumented arrivals then; it is just a slower drop than expected.

**Mr McMahan**—There has been a drop—a significant drop and a dramatic drop—over three years.

**Senator BARTLETT**—In relation to the figures on the annual report at page 31—the table there—you are dealing with large figures so I know that it is hard to get them spot on, but there were fewer than expected manually processed offshore applications and also fewer than expected ETA applications. Is that generally linked to the fewer than expected visitor numbers—tourist numbers and that sort of thing—or are there other reasons for that?

**Mr Rizvi**—There has certainly been a decline in the number of—that is comparing 2001-02 and 2002-03. In relation to the decline from 2001-02 to 2002-03—that is non-ETA visitors—there are two main things that I can think of that that would relate to. One is that there has been a decline in the number of visitors onshore seeking an extension—that is, a further visitor visa. The second aspect of that would be the impact in the last two to three months of 2002-03 of SARS, particularly in the South-East Asia region, and particularly out of China. They would have probably been the two major factors that would have contributed to that decline.

**Senator BARTLETT**—With the working holiday visas, you will recall questions last year, and a bit of debate, about working holiday visas for people from Iran. Have any of those been issued as yet?

**Mr Rizvi**—Yes, we have had a small number, Senator. I am advised that the number is now up to 15.

**Senator BARTLETT**—Can you just briefly step me through the process there? What is different about that process as opposed to working holiday visas from everywhere else?

**Mr Rizvi**—Probably the key differences in requirements with the work and holiday visa compared to standard working holiday maker visa include, firstly, a requirement that the person be selected by their government, so the government puts the person forward as an appropriate candidate; secondly, that the individual must have a minimum level of English;

and, thirdly, that the individual must have a minimum level of skill. They are probably the three key differences between the work and holiday visa and the working holiday maker visa.

**Senator BARTLETT**—Are there any anticipated numbers? I know it is early days and 15 is a very small number, but are we expecting higher numbers than that—up into the hundreds soon enough?

**Mr Rizvi**—I think that we can expect it to continue to grow. I do not think it will become a huge program but, yes, it will certainly continue to grow.

**Senator BARTLETT**—Another reasonably recent area is the changes with the aged parent visas. How is that progressing? I know it is still early but are there any figures to date to get an idea of how many people have switched across to the new contributory scheme from the pre-existing queue—the number of applications and the like?

**Mr Rizvi**—I can give you some general commentary on that issue and I will get details shortly of the numbers that have actually moved across from the non-contributory category to the contributory category. Essentially, we are on track to deliver this year some 1,500 visas in the non-contributory category and we are confident of reaching that target towards the end of this program year.

**Senator BARTLETT**—Wasn't it supposed to be 2,000 non-contributory visas a year? When did the change go through?

**Mr Rizvi**—I think the agreement was 1,000 per annum in the non-contributory category and my recollection is 3,500 per annum in the contributory category.

**Senator BARTLETT**—Yes, you are right.

**Mr Rizvi**—But there was that agreement whereby, because the passage of the legislation was delayed, the number of places available in 2002-03 was carried forward into 2003-04 and, hence, the figure for the non-contributory category this year is 1,500 and the number of places available in the contributory category is 5,500. As I said, we are on target to deliver the 1,500 places in the non-contributory category. Application rates in the contributory category are not sufficient for us to fill all the places available in that category. We believe we will get something of the order of 2,000 or perhaps 3,000 visas in the contributory category this year.

**Senator BARTLETT**—You are not going to put all the spares across into the non-contributory category, I suppose?

**Mr Rizvi**—That would be a decision for government, Senator. With respect to your earlier question about how many have moved from the non-contributory category to the contributory category, to date the figures suggest about 1,700 applicants have withdrawn their non-contributory applications in order to make a contributory application.

**Senator BARTLETT**—Are there any views on why you have not met the 5,500? It does not sound as if you have even come close.

**Mr Rizvi**—That is fundamentally because the number of people who have applied has not been to the level that we anticipated might be the case.

**Senator BARTLETT**—Do you have any idea why it has not been to the level you had anticipated?

**Mr Rizvi**—That would be a complex set of issues and I would not be in a position to speculate.

**Senator BARTLETT**—It is not an issue of people not being aware of it or something like that, is it? Everybody that was in pre-existing queue would have been—

**Mr Rizvi**—They were all advised of the availability of the new categories. We have also made contact with sponsors and we have put out extensive material on our web site. I do not think that it would be a lack of awareness. Certainly, awareness of the new category amongst ethnic communities in Australia is quite strong.

**Senator BARTLETT**—So what are the numbers that are now left in the queue and the non-contributory pipeline?

**Mr Rizvi**—We might have to take that on notice. We do not have the pipeline figures with us.

**Senator BARTLETT**—The issue of regional resettlement—of migrant settlement in regional areas—has got a little bit of coverage. There was a statement released by the minister on 12 January announcing a new scheme to encourage migrants to settle in regional Australia, with a range of different versions of the release targeted at different states. Each of the releases had Minister Vanstone saying:

The Acting Prime Minister, John Anderson, and I ... announced a series of new measures to attract more migrants and refugees to Australia's regional areas.

The releases then detailed some visas for skilled migrants and self-funded independent retirees. What are the specifics on attracting more refugees to Australia's regional areas? I could not deduce those from the statement.

**Mr Rizvi**—The reference to refugees there is to the offshore refugee intake. What we are doing at the moment is going through a process of consultations with state governments to identify appropriate locations in regional Australia where we might be able to trial the resettlement of unlinked offshore refugees in various parts of Australia. Subject to the outcome of those trials we would be able to look at other trials and at assisting that to grow.

**Senator BARTLETT**—So that is the extent of the new measures attracting refugees, and these are offshore refugees.

**Mr Rizvi**—That is essentially what we will be seeking to do: to work with state governments to identify appropriate locations in regional Australia where we might conduct such trials.

**Senator SHERRY**—When are these trials to start? Are there any dates yet?

**Mr Rizvi**—My understanding is that some of the trials are already under way but others will be subject to the consultation process that is going on with the states. It will really be dependent on how long it takes us to reach agreement with the states on what the most appropriate locations are, and then of course we also need to ensure that the appropriate settlement services are available in those locations before we start the trial.

**Senator SHERRY**—So it could be a year or two before these new trials commence, wherever they commence?

**Mr Rizvi**—I believe the states are more enthusiastic about these trials than that, and as a result I think we will get progress on it more quickly than one or two years.

**Senator SHERRY**—How much more quickly?

**Mr Rizvi**—It is very difficult to be definitive about that. It really does depend on the progress of our consultations with state governments.

**Senator SHERRY**—Obviously those are Labor state governments, so I am sure they will be cooperative and enthusiastic. Let us say it takes six months to work out trials. It could be a year or two before we have a detailed program in action around the country, couldn't it?

**Senator Vanstone**—With respect, you have asked that and it has been answered. Mr Rizvi gave you the answer and you have now put the same question to him again.

**Senator SHERRY**—No, Minister, I do not think that is right. We were talking about trials. I am moving beyond the trial stage to a fully fledged program in operation.

**Mr Rizvi**—That would depend on how successful the trials were. Then there is the question of evaluation and deciding how to take it forward. The key point is that we need to make sure that we select the right locations where there are job opportunities and where we can provide the right settlement services so that the long-term effectiveness of the program is ensured.

**Senator SHERRY**—Do we have any sum of money in the forward estimate years for this yet?

**Mr Rizvi**—The funding side is being dealt with through the budget processes that are ongoing at the moment.

**Senator SHERRY**—I am assuming that there are no moneys in the forward estimates yet, but that could change.

**Mr Rizvi**—There is funding for settlement services that are available at the moment and there is a question of how much of that can be reallocated to the function. But, yes, other moneys are being sought through the budget processes that have still to be decided upon.

**Senator SHERRY**—Thank you.

**CHAIR**—We are still in output 1.1. Senator Bartlett, do you have any questions?

**Senator BARTLETT**—I asked the tribunal a question about the set-aside rate under the MRT. You addressed it a little. We have a 43 per cent set-aside rate on average. It is in the 60s in certain areas—I cannot remember which, off the top of my head. That strikes me as being very high. I gather it is broadly consistent with previous years. Is any more specific action being taken to try to reduce that? It seems fairly inefficient to have that level of error rate.

**Mr Rizvi**—Before I go to the issue of the action we are taking to try to reduce the set-aside rate, I might try to put the set-aside rate for the MRT into context when compared with the RRT. The MRT is dealing with a case load where refusal rates are much lower than the case load that the RRT is dealing with. The refusal rate for onshore asylum claimants is generally quite high whereas the refusal rate for the bulk of visas dealt with by the MRT at the primary level is in fact very low. As a result, the flow through at the MRT is a quite different sort of flow through from the one at the RRT.

Further to that, with set-aside rates you need to look at the circumstances of each visa to determine what is driving that flow through. Certainly, with high set-aside rates the circumstances, particularly for partner visas, are quite different. With partner visas we find that following the initial primary level refusal it is not uncommon—because there is quite some time between the initial refusal and the consideration of the review application—for the applicant to be able to document the case much better and for new information about the relationship to emerge which may lead to the MRT taking a different view on the genuineness or otherwise of the relationship from what might have been taken at the point the primary decision was made.

Having said that, we are very conscious of the high set-aside rate in the MRT. We meet with the MRT on a regular basis to identify what the issues may be, including issues where our staff need more training and issues where we believe the MRT may have taken a view different from us on the legislation. We discuss that with them where we believe they may be taking a view that might be inconsistent with the legal advice we have. We have set up more formal arrangements to try to get those set-aside rates down through a combination of better training of and guidelines for our own decision makers and better liaison with the MRT on decision making where we believe they may not have interpreted the legislation in the same way we have.

**Senator BARTLETT**—I do not expect you to have these figures with you but it would be good if you were able to provide them. What percentage of people who are rejected then appeal? How many out of those who are rejected actually lodge appeals? Is it 10 per cent of the people who are rejected who then lodge an appeal with the MRT, or is it only five per cent?

**Mr Rizvi**—I do not have those figures at hand but we can take that on notice.

**Senator BARTLETT**—Thank you.

**Senator SHERRY**—I have one question arising out of Senator Ludwig's questioning on Omar Mohamed. Is the wife of Omar Mohamed on a movement alert?

**Mr McMahon**—Yes, she is.

**CHAIR**—I think that deals with migration and temporary interim visas. I thank the officers very much for their assistance. Previously we were searching for the officers to respond to Senator Sherry's questions on consultancy and contractual matters. Those officers have been located. We are going to return briefly to discussion of internal product—to deal with that matter—and then we will come back to output 1.2 and the normal order.

**Senator SHERRY**—I think Senator Ludwig had a preliminary matter to raise on the information available.

**Senator LUDWIG**—Yes, I did. I note in the annual report, if I take you to page 141, at the bottom of the left-hand side, it refers to consultants and competitive tendering and contracting. It refers to consultancy contracts let in total expenditure and at the bottom it says that more detailed information on consultancy services is available on request. Do you provide that on your web site?

**Ms Daw**—Available on our web site is information required by Senate order, otherwise known as the Murray motion.

**Senator LUDWIG**—Yes.

**Ms Daw**—With the threshold of \$100,000, that contains all of our contracts, including consultancies. The annual report requires us only to report on consultancies.

**Senator LUDWIG**—But you have not reported on consultancies, in the sense that the annual report says that more detailed information on consultancy services is available on request. Do you say that saying that there was 213.47 meets that obligation?

**Ms Daw**—The requirements for reporting in the annual report are set by the Department of the Prime Minister and Cabinet, and we meet our obligations in reporting in our annual report in respect of that. Further to that, we have very detailed information—line by line—of each of the consultancies that makes up this summary table.

**Senator LUDWIG**—So you say that saying that there are 99 formal written contracts—in other words, that small paragraph—totalling 213.47 meets your requirements or the requirements that are required by the auditor to be put into an annual report?

**Ms Daw**—We believe so, yes.

**Senator LUDWIG**—You do or you do not?

**Ms Daw**—Yes.

**Senator LUDWIG**—I was curious about why, back in 2001, when you look at that report—you may not have it with you, but I am happy to share my copy with you—you actually include appendix 6, advertising and marketing research, and so on. And it goes on, at appendix 7, to list consultancy contracts let during the year with a value in excess of \$10,000. Then appendix 7 provides them. Have the audit report requirements changed between 2001 and now?

**Ms Daw**—I understand that the reporting requirements have changed in the period between the two annual reports that you are talking about.

**Senator LUDWIG**—In providing—

**Ms Daw**—In particular, in the necessity of providing the detail as an attachment. Secondly, the reporting has changed in respect of the requirement to report the expenditure in respect of contracts let in that particular year, which is the figure that is contained in the 2001-02 annual report, versus the requirement for the 2002-03 report, which requires agencies not only to report on new contracts let—that is, 99 for that year—but to report on the total consultancy costs expended. The 213.4 million that is recorded there does not relate only to 99 new contracts let.

**Senator LUDWIG**—Perhaps you could help me then, as I was not aware of the change. What change was made that you then operated on from the 2001 reporting convention to the reporting convention you have adopted now, where you put into the annual report a small paragraph about \$213 million of contracts with very little detail about what they are and how the public money has been expended on those types of contracts?

**Ms Daw**—I would be happy to take that on notice and provide that information.

**Senator LUDWIG**—Is it the intention then of the department to continue with that reporting regime, to continue with the small paragraph buried in the report about consultants worth that amount of money?

**Mr Farmer**—I would like to make a general statement on that point. There has been quite a bit of discussion about what should and should not go into annual reports. We have had a number of comments addressed to agencies saying that the reports are getting too long and too detailed and that we should look at the specific requirements. I have taken that by the letter, as it were, and we are looking very much to satisfy the requirements that are there. We will set out the requirements as we understand them in the response.

**Senator LUDWIG**—Yes. You can see how it looks to me. I have never asked you to provide less detail ever. I do not want to make the suggestion, but you can see that between 2001 and now there is a significant difference in the information provided per contract, and the level of information I can then question you on, if I just read the annual report, is limited. I have to wait until now to ask about the contracts—and I think that my colleague might ask for all that detail, so I will let him do that—and we cannot really question you about those until we get your answer back in May. That is then in the ensuing round, and there is a different focus for that one. There is a problem with that. I might put a standing order in for November for you to provide the list of consultants for the committee, the amount expended on both let and new contracts and a synopsis of what they are. That might be a way of getting around it. That is just off the top of my head, but I am happy for you to negotiate that further with the chair of the committee.

**Mr Farmer**—As Ms Daw said, we also provide information to the Senate—

**Senator LUDWIG**—That is for \$100,000-plus contracts—

**Mr Farmer**—Yes.

**Senator LUDWIG**—so it does not capture all of them. I thought I would ask for all of them and, yes, I know you are only too happy to help.

**Mr Farmer**—The nub of what we are really saying is that we follow the guidelines. We have cut a number of things. For example, we used to do what we thought were quite interesting little stories. No-one ever really commented on those and we thought we would make this a reporting document, not a document that blows our trumpet on the fabulous job we did with the Olympics or what have you.

**Senator LUDWIG**—I understand that but I would not want a valuable detail to be lost in the report that could otherwise explain the department's role and function during the year. But in any event I understand that you meet your requirements and we will pursue ours.

**Mr Farmer**—And if the requirements change we will tug the forelock and do our best.

**Senator SHERRY**—To follow up, you referred to complaints about the length of these reports—

**Mr Farmer**—They were comments. I am thinking of the comments made by the people who judge the annual reports. There are various awards given for annual reports and comments there talk about the reports that are focused and those that are not.

**Senator SHERRY**—You intrigue me. Who are these judges and awards? Who are these people?

**Mr Farmer**—This is not terribly important to me, so I—

**Senator SHERRY**—You have not won an award recently by the sound of it.

**Mr Farmer**—That is right, and I have not tried. I just think that we have got bigger things to work on. I think that it is the Institute of Public Administration or some such—

**Senator SHERRY**—Whilst they might have valid concerns, the parliament itself has not registered complaints to the department.

**Mr Farmer**—Yes.

**Senator SHERRY**—I think in terms of the annual report the accountability is to parliament and, obviously, the general public and other organisations. I think that is the important perspective, from the parliamentary point of view.

**Mr Farmer**—I agree entirely. That is why I said we always strive to meet the requirements that are there and I believe we do meet them.

**Senator SHERRY**—I have a series of questions on the consultancies. There is a fair bit of detail involved and I suspect that some at least would have to go on notice. They were predicated on us not having access to the detail that is now available, at least some of which might be available if we went to the Internet beyond the annual report. I will read through them slowly, Mr Farmer, and you might be able to respond to them; otherwise, I will accept that you have taken them on notice. They cover: the total cost of consultancies; whether a consultant contract, where applicable, has been renewed; where the consultancy has been renewed, the detail on the cost of the new contract; the location of the consultancy undertaken; and whether the work related directly to a DIMIA detention facility, offshore or onshore. There might be a whole of Australia contract for an organisation but I would like the breakdown of the locational cost; whether the organisation provided immigration advice to a DIMIA client; whether the advocacy work was undertaken on behalf of an asylum seeker; whether the work was previously undertaken by DIMIA staff and, if so, when DIMIA staff ceased to undertake the work; and whether it has effectively in part or wholly been transferred to a consultancy.

**Mr Killesteyn**—Senator, could I clarify that that is just for the 2002-03 financial year.

**Senator SHERRY**—Yes. Obviously, a couple of the questions relate to possibly ongoing facts of relevance. I want to come back to the general issue of contractors, agencies and consultancies. We have talked about consultancies. Is there a list of existing contracts—not just consultancies but contracts—that DIMIA has with private companies? Is that available?

**Ms Daw**—It certainly is.

**Senator SHERRY**—Thank you. Could you provide the details of the nature of the contracts. I appreciate the commercial-in-confidence argument but I want some sort of description about what it relates to rather than just the name of the company.

**Mr Farmer**—That is not a problem. We do that in the Murray motion.

**Senator SHERRY**—Fine, thanks. We touched earlier on DIMIA having some sort of rental type agreements with Defence or motels or police or prison facilities. Do we have any contractual arrangements with state police authorities to undertake detention activities of any sort?

**Ms Daw**—That would be a matter for the program area responsible for detention.

**Senator SHERRY**—Okay, we will get to that. I will put that question aside. Similarly, we will get to Group 4 later. What program is that under?

**Ms Godwin**—It is under 1.3.

**Senator SHERRY**—Do you have a global figure available for the total cost of consultancies from 2000 to 2003, compared to five years ago? Do you have any historical data here on that?

**Ms Daw**—We would happily take that on notice and provide as much detail as we could.

**Senator SHERRY**—Okay, it would be the total cost for the last five financial years, year on year.

**Ms Daw**—For consultancies?

**Senator SHERRY**—Yes, and perhaps a separate category for contractors. Where do you put lawyers? Are they categorised as consultancies?

**Mr Farmer**—Can I make a statement here. There is a bit of administrative theology involved in this, and the theology is going through some evolution at the moment. In discussions between secretaries we have been given some ideas of new draft guidelines on this distinction between consultancies and contracts. That is under discussion right now. It is true to say that DIMIA has always taken a pretty broad view of consultancies so that, for example, we list large contracts like the Adult Migrant English Program, which is something in the order of \$100 million, both as a contract and a consultancy. Other agencies take a very different view and, quite rightly, work is being done now to try to reach agreement on a common set of definitions so that this difference of approach between agencies will be a thing of the past.

**Senator SHERRY**—Good. When do you think this clearer definition will be in place? For the next financial year?

**Mr Farmer**—It is being directed by the department of finance, but my understanding is that they want to do it quite quickly.

**Senator SHERRY**—Okay. I think that was all on the internal product.

**CHAIR**—Let us move to output 1.2: Refugee and humanitarian entry and stay. Broadly speaking, we are talking across protection visas and refugee resettlement issues in 1.2.

**Senator KIRK**—Could the department advise us as to the number of temporary protection visas that have been granted since November 1999?

**Mr Hughes**—There have been a total of 8,912 temporary protection visas: 3,661 to Afghans, 4,269 to Iraqis, 475 to Iranians and 507 to other nationalities.

**Senator KIRK**—So that total was 8,912? Is that what you said?

**Mr Hughes**—That is correct.

**Senator KIRK**—Based on the 30-month period that usually applies for the TPV until there is application for renewal, can you confirm that of those almost 9,000 TPV holders over 5,000 are now eligible for reconsideration for permanent protection or for a further temporary protection visa?

**Mr Hughes**—Over 5,000 have got to the 30-month point.

**Senator KIRK**—How many of those 5,000 have applied for permanent protection?

**Mr Hughes**—At the moment I can give you the total number of applications which have been lodged for further protection visas.

**Senator KIRK**—Okay, please do.

**Mr Hughes**—The total number is 8,453, of which 5,569 have applied at the 30-month period.

**Senator KIRK**—How many of those have been processed and have had a successful outcome?

**Mr Hughes**—Many are in process. As far as decisions go, at this stage there have been 660 primary decisions, of which 33 have resulted in visas being granted. The others are in process at various stages.

**Senator KIRK**—When you say ‘in process’, of those 660 have there been appeals against those decisions or are they just in the process of being granted?

**Mr Hughes**—Of the 660, 627 have been refused. In a number of cases, the people who have been refused have left the country. There have been over 400 applications for merits review to the RRT.

**Senator KIRK**—Were the figures that you gave me for applications for a further protection visa or for permanent protection?

**Mr Hughes**—They were all for applications for further protection visas but some of the people would be eligible for permanent protection visas depending on the time at which they applied. Of the total number of applicants, 4,083 lodged their further protection visa applications before 27 September 2001; therefore, should they be found to need further protection, they would be eligible for a permanent visa. Some others may be, of course, depending on the application of the seven-day rule.

**Senator KIRK**—So we have approximately 400 people waiting for review by the RRT; is that correct?

**Mr Hughes**—It is of that order. Obviously, the numbers change as people move through the system and decisions are made, but it is of that order.

**Senator KIRK**—How long is it going to take to process these 8,000-odd people who have lodged applications given that there have only been decisions made with respect to 660 of them? What sort of time frame do you have?

**Mr Hughes**—Decisions are being made at a relatively slow rate initially because of the start-up of the new process but it will progressively accelerate. I would expect that in this and

the next financial year the Afghans and other nationalities would be processed. The issue that remains to be established is when we will be in a position to start making decisions on Iraqi cases.

**Senator KIRK**—Yes, I was going to ask about that. The decisions will have to be made within the next six months or so because it is, as I understand it, a three-year temporary protection visa that is in existence, so if they applied at the 30-month mark then presumably by the end of 36 months there would have to be a final decision. Is that correct?

**Mr Hughes**—In effect, pending a decision being made, people remain on the same conditions as a temporary protection visa, so there is no change to their actual status pending a final determination on their case.

**Senator KIRK**—Have any of the persons whom you mentioned received a bridging visa? Are bridging visas being issued?

**Mr Illingworth**—If people have made a further application for a protection visa and that application has not been resolved, their status will be continued as the holder of a temporary protection visa, so they do not need to access a bridging visa.

**Senator KIRK**—Of the 8,000 holders of temporary protection visas, how many are Iraqis? You might have mentioned this at the beginning.

**Mr Hughes**—There are 4,269.

**Senator KIRK**—What is happening with the TPVs held by these Iraqi people? Has the process been frozen?

**Mr Hughes**—As Mr Illingworth mentioned, the people remain on their temporary protection visas pending a decision on their case. At the moment it is a question of whether the country information allows us to make reliable decisions. For the time being, we are not making decisions where the country information is not reliable. That is fairly typical of international practice. Most but not all countries in Europe have for some time suspended decision making on Iraqis and the UNHCR has generally called upon countries not to make decisions on Iraqis for the time being.

**Senator KIRK**—So these persons will just stay on temporary protection visas until such time as this information becomes clearer; is that what you are telling me?

**Mr Hughes**—That is correct.

**Senator KIRK**—What sort of period of time are we talking about here? When is this information going to be clarified sufficiently for a decision to be made?

**Mr Hughes**—That is hard to say but it is noticeable that a couple of European countries have recently decided they are in a position to make decisions. I think Denmark is one. In taking a view on the reliability of Iraq country information, we are obviously looking at international practice and how other countries view it as being reliable. We will keep a close eye on that so that when we feel we are in a position to make the decision we will.

**Senator KIRK**—Have there been any contingency plans put in place to expedite the determination of those TPV holders from Iraq when the department is in a position to unfreeze the cases because country information becomes available?

**Mr Hughes**—Without necessarily having a formal process, we do have a number of case officers on hand who have been involved in this type of work within recent years but who went to other duties when the protection workload shrank. They can be recalled to this type of work to give us some extra capacity to speed things up when we are in a position to make decisions on Iraqis.

**Senator KIRK**—So what you are saying is that there will be extra resources put into this area and decisions will be made relatively quickly?

**Mr Hughes**—That depends on when the situation becomes clearer, but it is possible that we can do that.

**Senator KIRK**—You are saying that there are 4,000 people in the system. How many additional staff are you considering putting in place?

**Mr Hughes**—I have not got an exact number, but there is extra capacity that we can draw on.

**Senator KIRK**—Once the country information becomes available, is it a fairly short process to make the decision about further protection?

**Mr Hughes**—I think it depends on the nature of the country information and how clear cut it is, given that these decisions are made on a case by case basis depending on individual claims. It will depend on whether the country information shows with a great deal of certainty that there either is or is not a problem with the type of claim that we have. I cannot really say what the result will be.

**Senator KIRK**—What arrangements does the department have in place currently for returning failed asylum seekers to, in particular, Afghanistan, Iran and Iraq?

**Mr Hughes**—Some of that comes under output 1.3, but I can say we do have a memorandum of understanding with the Afghan government in relation to returns to Afghanistan. At this stage only voluntary returns have taken place under that process. A number of voluntary returns to Iraq have taken place.

**Senator KIRK**—So you have an MOU with Afghanistan. Is there not also an arrangement with Iran?

**Mr Hughes**—Yes, there is also a memorandum of understanding with Iran.

**Senator KIRK**—Do you have anything formal with Iraq?

**Mr Hughes**—We have nothing with Iraq at this stage.

**Senator KIRK**—Those MOUs are both in relation to voluntary returns; is that correct?

**Mr Hughes**—The memorandum of understanding with Iran covers both voluntary and involuntary returns.

**Senator KIRK**—How does that work in practice? I understand that you have these arrangements in relation to Afghanistan and Iran, but in practice what is the process for both voluntary and involuntary returns to these countries?

**Mr Hughes**—It may be better to cover the practical aspects under output 1.3.

**Senator KIRK**—I will leave it till then.

**Senator BARTLETT**—On the issue of the Iraqis, there is no single piece of information you are waiting for before you start processing, is there? Are you waiting for something categorical to enable you to start?

**Mr Hughes**—There is no single piece of information. It is about just waiting until we feel that the information on conditions there is reliable and stable enough to enable us to make decisions.

**Senator BARTLETT**—Given the time the TPVs first came in, there must be people whose three years ran out over 12 months ago now. Is there any time limit at all on how long you can leave people dangling?

**Mr Hughes**—There is no formal time limit but obviously we recognise that the sooner we can make decisions the better.

**Senator BARTLETT**—Has there been any examination of any of the Iraqis to see if there is clearly sufficient information to make a determination now? Wouldn't there be at least some where there is enough information on the circumstances and there is clearly an ability to make a determination?

**Mr Illingworth**—Yes, there has been. We have been looking at the case load and monitoring it. The deferral of decision making is not a blanket direction; it is simply a reflection of the fact that, as Mr Hughes mentioned, for many of the cases there is a need to have clear country information before one can make a reliable decision. Where we can identify cases that a decision can be made on reliably, those cases are expected to be finalised. There have been a number of cases finalised for Iraqis.

**Senator BARTLETT**—You were saying earlier that there are a number who have started to go through the reassessment process and some who have been unsuccessful in their further application and then unsuccessful at the RRT. Once they are unsuccessful at the RRT, is it correct that their status changes and they lose their work entitlements and those sorts of things?

**Mr Illingworth**—Yes. Once a person has exhausted the merits review process and their application is finally determined, they cease to have the benefits of the visa which they have sought to extend. Their options then are perhaps to depart as a person who does not have a lawful entitlement to remain or alternatively to enter litigation. But they would have a period of lawful status after receipt of the Refugee Review Tribunal decision within which to make decisions and get their affairs in order.

**Senator BARTLETT**—A number of those, I presume, have sought ministerial intervention or ministerial discretion. Are those people then able to put on bridging visa E?

**Mr Illingworth**—That is correct. There is an opportunity for a person, if they enter the processes for seeking ministerial intervention, to obtain a bridging visa.

**Senator BARTLETT**—Did you give numbers in relation to those in amongst all of your stats that I missed or are you able to give us the number of people who are in that circumstance now?

**Mr Hughes**—I did not give you a number; I do not have it with me. I think it is a handful, but we can get that for you.

**Senator BARTLETT**—That would be good, thank you. You did give before the numbers who have gone to the RRT and failed, didn't you?

**Mr Hughes**—The point is, though, that they are in a window in which they have an opportunity to do something and so, because the numbers are quite small, it is unclear exactly whether they are going to apply for Federal Court review or not.

**Senator BARTLETT**—How long is the window?

**Mr Illingworth**—It is 28 days from the date of decision.

**Senator BARTLETT**—If you could get those numbers, that would be handy. So there is nobody at this stage—obviously there are some who have voluntarily returned—who has been put back in detention or involuntarily removed?

**Mr Hughes**—No.

**Senator BARTLETT**—It must be getting close to that stage with some of those people. Some of the RRT decisions were made last year, and certainly some were unsuccessful. Are there any contingency plans in place for people whose entitlement to remain has expired?

**Mr Hughes**—Obviously those cases are going to have to be handled on a case by case basis. Again, it may be something that is better discussed under output 1.3.

**Senator BARTLETT**—I have some questions on the department's requirement to provide information to the RRT about cases before them. They would come under this section, wouldn't they? In a tribunal finding in October last year, a tribunal member made a commentary about the department not providing information—although they did not press the issue with the department. This related to a case where a person claimed to be Afghani and allegations were made that they were actually Pakistani—and there have been a number of similar cases I want to ask a few questions about. This was one of those cases where people had 'dobbed in' somebody—to use the phrase in the finding. The tribunal had requested details of the sources of the 'dob in' from the department but the department advised that 'it was under strict obligation to keep the identity of persons who act as sources in these circumstances completely confidential'. Obviously this is not something that you would make known to the general public, but the tribunal member said that it was not at all clear to the tribunal on what legal basis the department refused to provide to the tribunal confidential information which prima facie was relevant for the purposes of section 418—which is the bit that says you have to supply information to the department. I do not know if you are aware of that particular case—I can obviously give you details—but is there anything in relation to a legal basis for the department not providing that sort of information to the tribunal if they request it?

**Mr Hughes**—Again, I think it might be a question that is better for output 1.3.

**Senator BARTLETT**—Tell me if this is also better for output 1.3, but I want to ask about the general issue of allegations of bogus claims and bogus country of origin. Are you able to give stats on how many people's TPVs have been cancelled for those reasons and how many of those cancellations were overturned on appeal?

**Mr Hughes**—I am sorry to say this again, Senator, but I think output 1.3 would be the place to deal with visa cancellations.

**Senator BARTLETT**—I am sure this one is 1.2. According to the statistics about the offshore resettlement places in the annual report—which are under output 1.2, so I think I am pretty safe—the total visa grants under the offshore humanitarian program were 11,656, including 4,376 refugee grants and 7,280 under the special humanitarian program. The criteria used for the refugee grants state about it being ‘in line with regional priorities recommended by UNHCR’. You have given priority to resettlement of people from Africa, the Middle East and South-West Asia. I wondered what other criteria are used in determining which people are selected in that part of the offshore program beyond the regional priorities.

**Mr Hughes**—If I could make that clearer, it is just the regional priorities that are informed by UNHCR—and not only by UNHCR; the process each year is in determining, broadly speaking, where the resettlement places are allocated. It has traditionally involved seeking a written submission from UNHCR, a process of ministerial consultations with peak community bodies in Australia and inviting written submissions from peak bodies as well. So all of these things are put together to form a view about where the resettlement places are best allocated on a regional basis.

**Senator BARTLETT**—Are there any criteria in terms of how long people have been waiting or things like that that are used as well in determining whom to select?

**Mr Hughes**—I think UNHCR’s priorities are based on those case loads that need resettlement as a durable solution—where there is no opportunity for voluntary repatriation or local integration and possibly also where there is a particular protection need where people might be in a peculiarly vulnerable situation in the location they are in; their situation might not be secure. In other cases, though, it may well be places where there is a very large number of people who have no other durable solution other than resettlement and they have been waiting for a very long time for a solution.

**Senator BARTLETT**—People who have family links to Australia and those who sponsor people into Australia all come under the special humanitarian program, don’t they?

**Mr Hughes**—Largely. There would be a few others in the refugee category.

[11.59 a.m.]

**CHAIR**—That concludes output 1.2. I thank the officers very much for their assistance. We will move to output 1.3: Enforcement of immigration law. That gives us a chance to continue Senator Sherry’s national tour, apart from anything else. That will be compliance, the mainland centres, transit visas, Christmas Island—and the list goes on. Senator Bartlett will recommit those questions he asked earlier and then we will go to Senator Sherry.

**Senator BARTLETT**—Hopefully people have had a preliminary taste of what I was seeking to find from those questions I asked earlier. That area has obviously been the subject of some contention and public comment, both by the government and indeed by the Afghan ambassador, about people holding themselves out to be from Afghanistan and then allegations being made about their being Pakistanis. Has there been a formal process set up to reconsider or reassess all Afghans or only ones where additional information has come to light?

**Mr Hughes**—I think you have to look at this both in respect of offshore and onshore. In respect of the assessments that were made on Nauru—and the Afghans have only ever been

on Nauru—essentially there was some awareness that there was likely to be a level of identity fraud there. We have never actually gone through a process per se of trying to identify the level. We certainly have asked on a number of occasions for people whom we believe to be Pakistanis to come forward. Overwhelmingly, that offer has not been taken up. We did at one stage put some thought into an investigation into that case load, particularly if it was going to impact on our ability to get documentation from the Afghan government, but in the end that has not been a major concern and, in many respects, up to date it has not been the issue around which protection may have ended up being provided.

For the onshore assessments we did set up a task force to identify identity fraud and it did result in refusals and visa cancellations, but it was a very small number. I think we had suspect identity fraud of between 200 and 300 people in the case load. We are having a little debate about the numbers here, but we will come back and tell you what we believe the level of identity fraud was. But, in many respects, it was overtaken by the changed circumstances in the countries, including returns, so it simply was not economical to continue the process that we had started.

The second issue that affected our decision to stop that line of inquiry was that we were getting information out of Quetta on the identity documents and that area became too dangerous for public servants to be going into. So, in effect, the base methodology for identifying it had been removed from us. So there were a number of reasons that we desisted. Nonetheless, we had formed a conclusion that there was a very substantial level of identity fraud in the domestic case load.

**Senator BARTLETT**—You had formed that conclusion but, according to what you are saying, because of other changing circumstances you did not necessarily give effect to the conclusion via substantial visa cancellations?

**Mr McMahan**—There was a range of reasons why we came to that conclusion. We started examining some of the case load more closely because of language analysis and inconsistencies in stories et cetera. That was the driver, as was also a substantial amount of information from the community. The Afghan community was coming back and telling us that many of the people who had been approved as Afghans were not Afghans.

**Senator BARTLETT**—Are you able to give us an overall set of figures? I know there were some cancellations and then some successful appeals against those cancellations.

**Mr McMahan**—I would have to take that on notice, but I would have to say that the number is very small.

**Senator BARTLETT**—So there is only a small number that were actually cancelled?

**Mr McMahan**—Correct.

**Senator BARTLETT**—If you could give us on notice the number that were cancelled and also the number of successful appeals, that would be appreciated. Is that language verification assessment process still happening?

**Mr McMahan**—That is actually a 1.2 question but, as I understand it, it is one of the tools that they use in making an overall assessment.

**Senator BARTLETT**—So it is still being used where it is felt necessary?

**Mr Killesteyn**—It is when necessary. The case load has changed now and primarily the protection visa applicants are onshore, so you find that we do not need to do the language analysis as much as we had to with a predominantly boat case load, as we experienced a few years ago.

**Senator BARTLETT**—I refer to the question I asked before about the specific commentary in one RRT finding. I do not know if you are familiar with that specific finding and the commentary that I made or whether my description of it made sense. It was about a tribunal member who made a comment about it not being clear to the tribunal what the legal basis was for the department to refuse to provide confidential information which, prima facie, was relevant for the purposes of section 418. That was information to the tribunal as to the sources of the dob-ins, if you like. Are you able to enlighten me a little bit on that? It concerned me to read of a tribunal member, even though they did not pursue it because they did not feel they needed to, saying the basis the department was using to refuse to provide information that the tribunal had requested was not clear to them. Is there some general policy specifically in relation to people who have dobbed in, for want of a better phrase?

**Mr Farmer**—It might be best if we give you a considered reply on that. I would like to make sure that we understand the facts of the case. If that is appropriate, we would take that on notice.

**Senator BARTLETT**—Yes, that is fine. Do you need details of that decision? Do you know the one I am referring to?

**Mr Farmer**—It would be helpful if you had a bit of paper for us, thank you.

**Senator BARTLETT**—I will give you that now. Hopefully I have given you enough preliminary detail for you to know what I am trying to ascertain. There was some publicity recently given to an Iranian man who was granted a protection visa and was then asked to pay \$18,000 for the costs of unsuccessful court appeals or the costs of detention—I am not sure which. Are you aware of the coverage of that? It got some coverage last week in the *Sydney Morning Herald*. Could we get some background on that: firstly, on whether the report is accurate and, if so, what the basis of it is? A few people have raised concerns with me about that example.

**Mr Evers**—In that case it is correct that there had been a letter written to the person involved seeking payment of outstanding litigation costs. There is a requirement under the Financial Management and Accountability Act for the department to pursue debts that are owed to the Commonwealth. The person involved had a number of cost orders made against them by the full Federal Court. The department was merely fulfilling its obligations under the FMA Act to pursue that debt.

**Senator BARTLETT**—So you are saying it is just a general run-of-the-mill procedure to make that sort of request?

**Mr Evers**—Yes. It is in accordance with our obligations under section 47 of the FMA Act to pursue debts that are owed to the Commonwealth. If any person believes that the debt should not be enforced, there are procedures whereby they can seek to have the debt waived by the Minister for Finance and Administration.

**Senator BARTLETT**—And that option would have been explained to the person when the request was made?

**Mr Eyers**—No. This person was represented.

**Senator BARTLETT**—But it is still open to this person to pursue that course of action?

**Mr Eyers**—Yes. If a person who owes a debt to the Commonwealth, particularly in respect of litigation costs, provides information that they are unable to pay those costs, then in many cases the debt is written off.

**Senator BARTLETT**—Another case that got some coverage, in December I think, is that of a man apparently of Sudanese origin, Mr Eidress—it is quite a long name but Eidress is the first part—who was deported as a stateless person born in Kuwait of Sudanese parents. He got to Africa, ended up being stuck in the airport at Tanzania, I think, for a week and ended up back here. I think he is still in Australia. Would it be possible to get some background in relation to that? It seems to me to have a few worrying aspects. Firstly, would it be possible to provide a chronology of what happened—when he was deported, how many days he spent in each place and when he ended up back in the country—just to get the specific facts. There have been a few different media reports that may or may not be accurate.

**Ms Godwin**—Clearly we are getting into personal details about an individual who has now returned to Australia. I suggest that we be circumspect in our remarks. If there is anything additional we will perhaps consult with the minister about providing that to you in a briefing format or something like that.

**Mr Williams**—I can give you some information in general terms about how those kinds of removals work. We base a lot of our processes on information provided to us by the person concerned, particularly about identity and nationality and particularly where a person has entered Australia as an unauthorised arrival, sometimes without documentation. In a case where somebody claims a particular nationality, our usual approach is to try to put that person in touch with their consular authority. In the case of many African countries there is no consular representation in Australia. We have adopted a process over the years of people travelling to a part of the world where there is obvious access to consular representatives. In those sorts of cases the ultimate outcomes often depend on the person's cooperation.

**Senator BARTLETT**—This person had been in detention here for between two and three years before he was deported—is that right?

**Mr Williams**—I cannot remember the precise time but that is probably about right.

**Senator BARTLETT**—I appreciate the issue of personal circumstances, but it was an issue—including, I think, his name—which was reported in the newspapers. I do not particularly want to go to the veracity of his claim or even to some of the personal circumstances but just what happened in this instance. When he was deported from Australia, I presume we had an intended end point where we were expecting him to end up. Was Sudan where we expected him to end up?

**Mr Williams**—In this case, it was Sudan—based on the information we had been given by him, to that time.

**Senator BARTLETT**—What sorts of arrangements and documents would you normally have to have in those circumstances? I presume we have deported people to Sudan before. What do we normally need to have sorted out beforehand?

**Mr Williams**—Usually people need a travel document from the country of their origin or at least some sort of express authority from that country for the person to return. Some countries do not produce travel documents. They simply issue a letter. Some countries are happy to accept documents issued by Australia. We have a document that is issued by the Department of Foreign Affairs and Trade that is sometimes used. It is really just a question of satisfying each different country's requirements. Obviously it is difficult when the country does not have a representative office here—and we do not have a representative office in many of those African countries either.

**Senator BARTLETT**—What went wrong on this occasion?

**Mr Williams**—Speaking generally, sometimes information that people give us turns out not to be true.

**Senator BARTLETT**—Wouldn't you have to have some level of veracity before you put people on a plane?

**Mr Williams**—Yes, we do. We do what we can on the basis of the information we are given and the documents we can identify, but the main aim is to try to put people in touch with their relevant consular authority and then seek to get the absolute identification through that process. At the end of the day, it is the country of origin that has the information and is able to make the ultimate determination.

**Senator BARTLETT**—Has anything come out of this episode that has led you or the department to reassess procedures?

**Mr Williams**—Not really. Where a person is not permitted to travel on or to get to their final destination, Australia's approach has always been to accept their return here while we try to sort out the issue. We do not want people stranded in transit. We have obvious responsibilities that continue to apply until the person gets to their final destination. In a rare case such as this where somebody cannot finish their intended travel, we say, 'Righto, we'll take responsibility for that.' The person comes back and we try to sort it out. In cases such as this we will have to go—and we do go—back to the claimed country of origin to try to sort out what might have been the information they needed but which they did not get.

**Senator BARTLETT**—So there was no problem with the documents that DIMIA provided—that did not cause the glitch?

**Mr Williams**—No. If Australia issues a document, it is usually the certificate of identity—and it is simply that. It is a certification about what we understand to be the person's identity. It does not purport to guarantee the person's right of entry anywhere, and that right ultimately rests with the country of destination. Sometimes those certificates of identity are endorsed with a visa or some kind of instrument that establishes beyond doubt that the person can enter. Sometimes they are not. As I say, it can be a letter. In some cases it is a third-person note or diplomatic exchange. It really depends on the country. All the Australian document seeks to do is to provide a certification about the person's identity to the best of our knowledge.

**Senator BARTLETT**—With regard to the MOU with Iran that was signed a while ago, which we asked questions about last time we had estimates, there had been only two people who had been deported using the things that had been agreed to there. Have there been further deportations to Iran under the terms of the MOU since then?

**Mr Williams**—Yes. The MOU talks about returns in general, both voluntary and involuntary. There have been, I think, 28 returns under the MOU since it was signed.

**Senator BARTLETT**—How many of those were involuntary?

**Mr Williams**—Two, I think.

**Senator BARTLETT**—There are obviously still some Iranians in detention that we are wanting to encourage to return, I presume—

**Mr Williams**—Yes.

**Senator BARTLETT**—and, at this stage, are still attempting to enable those to be voluntary?

**Mr Williams**—It is in everybody's interests if those returns are voluntary but at the end of day if they are not there is provision for involuntary returns.

**Senator BARTLETT**—The recent political developments in Iran have not impacted on that in any way?

**Mr Williams**—People need to make individual claims about whether or not they face persecution based on the convention grounds. If people are not able to establish that they have grounds under the refugee convention then return occurs.

**Senator BARTLETT**—I have a few more questions in this area but I might like the sound of someone else's voice for a while.

**CHAIR**—Why don't you continue, Senator Sherry?

**Senator SHERRY**—Thank you. I want to come back to the detention centres in Sydney; I just want to finish those questions first. What are our facilities in Sydney at the present time?

**Mr Davis**—At the present time we have the Villawood immigration detention centre, and the Singleton centre is a contingency site for potential use if ever required.

**Senator SHERRY**—Okay; let us deal with Villawood first. Could you provide the forward estimate cost for the operation of Villawood?

**Mr Davis**—As I said previously, the way the detention operational budget works is that it is an envelope which covers all of the centres. The populations of each of the centres varies from year to year, month to month and day to day. The way I operate that budget is to work within that envelope. That means that, from time to time, the figures go up and down. But, broadly within the envelope, the Villawood centre has been running around the \$20 million mark in recent years.

**Senator SHERRY**—What is the capacity of Villawood?

**Mr Davis**—The medium-term capacity is 510 but we can go up to about 700 on a short-term basis—what we call surge capacity.

**Senator SHERRY**—Briefly, going back to that issue of the forward estimate costs, does that include the costs of private provision of services where that occurs?

**Mr Davis**—Yes. Those sorts of figures would include both the contractual costs we have as well as the departmental costs associated with our activities at Villawood.

**Senator SHERRY**—What are the numbers in Villawood at the moment?

**Mr Davis**—As at 11 February there were 448.

**Senator SHERRY**—What have we got at the proposed site at Singleton at the moment?

**Mr Davis**—Essentially we have put some fencing around a portion of Defence buildings. It is a contingency site; it has never been used. I do not have the figure in front of me but capacity is around 500. As I say, it has never been used by us.

**Senator SHERRY**—Are we renting that site from Defence at the moment, or is it being purchased by DIMIA from Defence?

**Mr Davis**—No, it is tagged for our use if we need it in a contingency situation, but we do not pay rent or have any sale or purchase arrangements.

**Senator SHERRY**—It is owned by Defence?

**Mr Davis**—Yes.

**Senator SHERRY**—Is there anything in the forward estimates for either capital development or operational costs at Singleton?

**Mr Davis**—Consistent with budget measures announced several years ago we do have some allocations associated with the redevelopment of the Villawood site, particularly the replacement of stage 1, which is the higher security area.

**Senator SHERRY**—You do not have those figures here?

**Mr Davis**—I do not have those figures here. Even when those figures were published in our budget documents some years ago we were careful not to publish individual sites for commercial reasons. In accessing contractors and others we deal with these matters within the broader budget to protect the Commonwealth's interests in engaging contractors and tendering such activities.

**Senator SHERRY**—You are not able to give us a figure? It does not have to be now; you may not have it with you.

**Mr Davis**—The difficulty is the commercial nature of individual sites. We would certainly have figures that spanned the range of developments and activities that we undertake. The difficulty comes down to individual sites and separating those out.

**Senator SHERRY**—Is there anything in the forward estimates in terms of plans for Singleton?

**Mr Davis**—No.

**Senator SHERRY**—That is it in Sydney?

**Mr Davis**—Yes, that is it at the moment.

**Senator SHERRY**—Are there any other facilities that we are renting from state governments or private organisations?

**Mr Davis**—In all states we do have some detainees in state prisons and hospitals and things of that nature, and all of those costs are paid on a case by case basis. We do have arrangements with almost all state governments to access their facilities for some detainees.

**Senator SHERRY**—Can you give us some details of the cost breakdowns where those facilities are used?

**Mr Davis**—Yes.

**Senator SHERRY**—There is nothing else in New South Wales?

**Mr Davis**—No.

**Senator SHERRY**—Moving south to Victoria, is there anything there?

**Mr Davis**—In Victoria we have the Maribyrnong immigration detention centre. The capacity at surge is about 80. Usually we try to work around the 70 to 75 mark as peak capacity. We have had a number of detainees cared for in the Melbourne community. We have one family in that situation at the moment.

**Senator SHERRY**—How many detainees are in Maribyrnong at the moment?

**Mr Davis**—As at 11 February it was 56.

**Senator SHERRY**—There are no capital works planned for Maribyrnong, are there?

**Mr Davis**—No.

**Senator SHERRY**—What are the ongoing costs of operation on the forward estimates?

**Mr Davis**—Can I take that on notice for all centres in the context of what I said previously?

**Senator SHERRY**—Yes, I was anticipating that you would. There is nothing in Tasmania?

**Mr Davis**—No.

**Senator SHERRY**—South Australia?

**Mr Davis**—In South Australia we do, as I said, access some state remand centres and prison facilities for some detainees. In South Australia there are also detainees transferred from time to time to either Maribyrnong or Villawood, and indeed small numbers of detainees who are located in the Adelaide community have been located in the Baxter facility, which also houses predominantly unauthorised boat arrivals. At the moment we also have the residential housing project at Port Augusta, which has been open since mid-November. We have the Woomera detention facility and the Woomera residential housing project. They are both mothballed at the moment.

**Senator SHERRY**—What are the forward estimate costs for Port Augusta? Is the property at Woomera owned by the department?

**Mr Davis**—It is property owned by the Department of Defence but we have access to it on a needs basis.

**Senator SHERRY**—Is there some sort of contractual agreement with Defence for its use?

**Mr Davis**—I do not believe there is actually a documented contractual agreement but there is certainly a very clear understanding between us and the defence department on access to and use of the detention facility and the residential housing project.

**Senator SHERRY**—Are there any departmental staff there?

**Mr Davis**—Not at the moment.

**Senator SHERRY**—Is Defence maintaining it?

**Mr Davis**—We do have a maintenance arrangement. I do not know whether it is through the defence department or through private maintenance arrangements but we do have a maintenance arrangement to ensure that we could re-access the facility at short notice.

**Senator SHERRY**—So there is an ongoing cost paid for by the department at the moment to cover the basic maintenance even though it is Defence property?

**Mr Davis**—Yes.

**Senator SHERRY**—What about Western Australia?

**Mr Davis**—We have the Perth Immigration Detention Centre, which is located near the domestic terminal at the airport. We do access motels for—

**Senator SHERRY**—Just before we go to the motels, again there must be a rental arrangement with the terminal.

**Mr Davis**—Yes, we lease it from the Perth airports corporation.

**Senator SHERRY**—Okay. The forward estimate cost of that—sorry, go on.

**Mr Davis**—We do access some motels in small numbers for the purpose of detaining women and children who may be held for short periods of time. We have the Port Hedland facility in Western Australia, we have the Port Hedland residential housing project near the Port Hedland facility and we have the Curtin centre, which has been mothballed for some time.

**Senator SHERRY**—Let us start with Curtin first. Is that owned by the department?

**Mr Davis**—It is owned by Defence; it is on Defence land. There are demountable and some other assets in the facility which are owned by us and there are other buildings there owned by the defence department, so it is actually a situation that is similar to Woomera. Some of the demountable buildings and other things that have been put on the site are owned by us, in addition to Defence, if you like, owning the land and some of the freestanding permanent buildings.

**Senator SHERRY**—Are there any maintenance agreements with Defence there?

**Mr Davis**—We do have some maintenance arrangements on Curtin as well, yes.

**Senator SHERRY**—Are there any proposals to dispose of those assets that are owned by DIMIA?

**Mr Davis**—Not as yet, no. We keep an eye on those assets and when they are no longer fit for the purpose, we may dispose of them.

**Senator SHERRY**—What about Port Hedland?

**Mr Davis**—Port Hedland is an operating centre. At the moment, it has—as at 11 February—72 residents.

**Senator SHERRY**—What is its capacity?

**Mr Davis**—It has a capacity of 560 and surge of almost another 200.

**Senator SHERRY**—Obviously, there are similar operational costs. What about the contracts where the services are carried out by a private provider? When you shut a centre and there is a private provider there, I assume you are obliged to meet the costs of the contract for the contract period whether they are providing the service or not.

**Mr Davis**—Where a centre is shut there are some provisions in the contract for closure costs. Normally, unless there are some deliberate decisions to maintain a contingency work force, that is a one-off cost with closing a facility. That has certainly been the situation and the arrangement with Curtin and Woomera; we had one-off costs associated with their closure. If they were ever to be reopened, there would be some one-off costs associated with the reopening as well.

**Senator SHERRY**—Could you give the committee the details of those one-off costs when that occurred?

**Mr Davis**—Could I take that on notice?

**Senator SHERRY**—Yes. Which detention centres are now managed by Group 4?

**Mr Davis**—The only centre that continues to be run by what was formerly ACM—they have renamed themselves; they are now called GEO—is the Villawood centre. The Maribyrnong, Baxter, Perth, Port Hedland and Christmas Island centres have all transferred now to GSL, which was formerly called Group 4. They have all renamed themselves, Senator.

**Senator SHERRY**—We have touched on the transition costs. Where there have been transitional costs, could you take on notice what they were from GEO to GSL. I have to adjust all my questions now for the new names. At the present time, what is the total cost of management of detention facilities by GSL?

**Mr Davis**—It is early days for GSL—they have only been operating centres since December. I do not have disaggregated information relating to the different companies.

**Senator SHERRY**—You would have a projected cost, surely.

**Mr Davis**—I will describe how I seek to operate the detention budget. I do seek to look at my forward estimates and look at my budget envelope and I do seek to project scenarios, if you like, around future detainee numbers, which is a very difficult thing to do, particularly for unauthorised boat arrivals where we may get new arrivals or, indeed, where the caseload is slowly declining, if you want to put it that way. So within our budget envelope I do scenarios, as I say, and I have a total budget available. I do some work to try and understand the contractual costs within that budget envelope. For the current financial year we have costs associated with what was formerly ACM as well as with GSL—I have got costs to both going on this year as well as DIMIA costs. Projecting forward, I do not have a disaggregation of exact costs associated with either contractor, nor necessarily site by site.

**Senator SHERRY**—I do understand the difficulties. I am not going to come to a future estimates and say, ‘You told me this dollar figure.’

**Mr Davis**—I guess the way I think about it is that orders of magnitude is one way of approaching it. Perhaps we could have a look at what can be provided.

**Senator SHERRY**—Okay. There appears to be some conflicting information on the costs of detention per detainee per day. The most recent amount indicated by the department back on the 4th of the 11th last year is \$400 per day for a detainee for immigration reception and processing. This appears to be an increase, up from \$162 a day in the financial year 2001-02. Are those figures broadly accurate? If they are not, can you give me the figures? If they are, why?

**Mr Davis**—They are broadly accurate. For immigration reception and processing centres it was \$162 in 2001-02. The latest figure, which is to the end of December, is \$376 in the current financial year for immigration reception and processing centres. There are quite a few factors that impact on those differences. Firstly, in 2001-02 the centres were quite full, if I can describe it that way—the numbers were significantly higher. There are economies of scale in contractual arrangements in that greater numbers of detainees lead to economies on food, health and a range of services that are provided. So diseconomy is certainly one factor. I think location of centres is also an issue that comes into some of this. Certainly the remoteness of the Curtin and Woomera centres was a factor in terms of both staff allowances and other things paid by contractors as well as transport and other costs that we might have borne separately. So there are quite a few factors that impact on the charges. Probably the predominant one from 2001-02 to 2003-04, for that year-to-date six-month figure of \$376, is the diseconomies of the numbers we have in detention facilities.

**Senator SHERRY**—Presumably there is also a base cost of keeping a centre open, regardless of the numbers of detainees.

**Mr Davis**—Yes, that is right.

**Senator SHERRY**—I know we are not dealing with it here, but I saw an extraordinary figure of \$1.4 million for Manus with 40 staff employed for one detainee. I know that the press gave it a particular slant. You are not involved in—

**Mr Davis**—I do not deal with that matter, Senator. I deal with the onshore centres and Christmas Island—

**Senator SHERRY**—That makes your figures pale into insignificance—\$1.4 million for a year for one detainee.

**Mr McMahon**—This is actually output 1.5—

**Senator SHERRY**—I was going to get to that later. I thought you were upping the cost. The *West Australian* would be very interested!

**Mr McMahon**—It is lucky that I did not say 2.3. Do you want me to address that now?

**Senator SHERRY**—No, we will get to that later. I think they started out at a higher figure—\$4.3 million—but it got down to \$1.4 million for this one refugee. It seemed to me quite an extraordinary cost. But back to the mainland. You have mentioned that the cost of

specific reception processing centres varies. Can you give us a cost for Port Hedland and Christmas Island, in respect of detention centres, and Baxter, Villawood, Maribyrnong and Perth, and residential housing projects at Port Hedland and Port Augusta? You can take it on notice.

**Mr Davis**—Yes.

**Senator SHERRY**—I think we have covered all our questions in the general overview. As at 30 June last year, how many unauthorised arrivals did we have in detention?

**Mr Davis**—Can we take that on notice or do you want us to see if we can find that figure for you?

**Senator SHERRY**—If it is readily available, I would appreciate it now. I am then going to ask a series of questions about how many are now—

**Mr Davis**—I think I have how many there are now; I am sure I have got the 30 June figures.

**Senator SHERRY**—and a breakdown by detention centre, both on 30 June and now.

**Mr Davis**—I have the numbers by centre for 3 July 2003 but I do not have—

**Senator SHERRY**—Yes. That is 3 July last year?

**Mr Davis**—That is the closest situation report to the start of the financial year. The total numbers in detention at that time, 3 July 2003, were 1,289. Of those, Villawood, Maribyrnong and Perth, predominantly, have visa overstayers, compliance cases, as well as unauthorised air arrivals. I do not have in front of me the disaggregation of unauthorised arrivals. For the IRPCs that were open at the time, as at that date, Baxter centre had 295 of that 1,289; the Port Hedland centre had 117; and the Woomera residential housing project had 17 at that time. We also had detainees in other facilities outside detention centres. At that time we had a total of 264 detainees in other types of facilities, which would include compliance cases as well as perhaps some unauthorised boat arrivals that were maybe in foster care or community placement. I need to take it on notice if you need more detail than that.

**Senator SHERRY**—What is the figure now for the—

**Mr Davis**—As at 11 February, the total numbers in detention are 990. For the same centres, the Baxter centre has 191; the Port Hedland centre has 72; we have 28 in the Port Augusta residential housing project; we have three in the Port Hedland residential housing project; and then we have 92 in other facilities, which would include some unauthorised boat arrivals in things like foster care and community placement as well, but I do not have the disaggregation of that figure.

**Senator SHERRY**—I was going to ask what happened to the people who are no longer in detention.

**Mr Davis**—A variety of things: we have had people returning and we have had visa outcomes.

**Senator SHERRY**—Of those released since July, do we know how many have applied for permanent protection and the country of origin of those people?

**Mr Davis**—I would have to take that on notice. I would need to understand the question a little bit more before I could answer it anyway.

**Senator SHERRY**—I will just run down these questions and if you need any clarification you can come back to me. Of those released since the beginning of this financial year, how many have applied for permanent protection and what is their country of origin? How many have received permanent protection and what is their country of origin? How many have applied for temporary protection and what is their country of origin? How many have received temporary protection and what is their country of origin? Of those released since 30 June—the beginning of the financial year—how many have received a bridging visa and what is their country of origin? How many individuals have been detained by DIMIA for the last four financial years and what is the breakdown of that figure by detention facility? Do you know how many children who are considered unauthorised arrivals were in detention at the beginning of this financial year and how many there have been since then who have been released—as of today?

**Mr Davis**—I will focus on the Baxter and Port Hedland centres and the residential housing projects. I just need to add up a couple of numbers. As at 3 July, at the Woomera residential housing project, the Baxter IDF and the Port Hedland IRPC, the total number of children was 69. We do not have the same three facilities now. The Woomera residential housing project has shut and we have the Port Augusta housing project. There are eight children in the Baxter facility, four in the Port Hedland IRPC and a total of 31 children in the residential housing projects associated with those two centres.

**Senator SHERRY**—That is 43 children. Is my maths right?

**Mr Davis**—Yes.

**Senator SHERRY**—So the numbers went from 69 down to 43.

**Mr Farmer**—Within that set of figures there is an important distinction, and that is that the Port Augusta RHP has been opened. So the number in the IRPCs has gone down more dramatically than those figures would indicate.

**Senator SHERRY**—Yes, thank you, Mr Farmer. What is the average length of detention per person at the present time?

**Mr Davis**—Are you talking about all detainees?

**Senator SHERRY**—Yes.

**Mr Davis**—I do not think I have figures by type of arrival. I have the length of detention for the total population as of 23 January. At 23 January we had 997 detainees. That includes people in detention centres as well as those in alternative detention and other places of detention. What breakdown would you like me to give you?

**Senator SHERRY**—What is the average length of detention?

**Mr Davis**—I do not have an average figure; I just have the breakdown for different periods.

**Senator SHERRY**—Please take that on notice.

**Mr Farmer**—I am not sure that the average is actually very helpful. Let us say you have a quite sizeable number of people in a detention centre who are there for a couple of days—say air arrivals before being removed. That can have a quite significant effect on the average.

**Senator SHERRY**—So we could go for the mean, which would give us a different figure, or have a breakdown by category and length of stay.

**Mr Farmer**—What we can have is up to a month, one month to three months, three months to six months or over a year—that sort of thing. I think that would give you a better picture.

**Senator SHERRY**—You are going beyond what I was thinking of, Mr Farmer, but I will gratefully accept that. That would be good, thank you. I noticed, from the answer to a previous question on notice, that the longest period of detention for a person then currently in immigration detention was 2,157 days. I think that is almost six years. Has that person recently been deported? There was a report in the media and I am trying to ascertain whether that report was accurate or not.

**Mr Williams**—That was the person who had been the second longest, a Cambodian criminal deportee.

**Senator SHERRY**—Who was the longest?

**Mr Williams**—Another chap who has got a number of complaints before the UN Human Rights Committee in Geneva, which is taking a long time to get through the process.

**Senator SHERRY**—How long has he been in detention?

**Mr Williams**—I do not have current information. It was roughly along those lines.

**Senator SHERRY**—If you would let me know, please.

**Mr Williams**—Yes.

**Senator SHERRY**—What type of matters are before the UN committee in Geneva?

**Mr Williams**—He has made a complaint to the UN Human Rights Committee under some of the treaties that Australia is a party to that relate to human rights. Whilst his case is before the UN, he has not been removed to his country of origin. It is a very slow process to go through UN committees.

**Senator KIRK**—Over the past five financial years how many individuals were detained in more than one facility? Do you have that information here? You may need to take it on notice.

**Ms Godwin**—There are two things to say. We would not have it here. We would have to take it on notice. In any event, it would require a huge amount of effort to get that. People move from centre to centre for a variety of reasons; we would actually have to examine individual lists of names for each centre to work it out—or examine people's individual detention records. That may well be an amount of work which is unreasonable in the circumstances. We can examine it, but we might have to come back to you on that one.

**Senator KIRK**—Is it possible just to run through names and determine how many times individuals have moved between centres? Is that any easier?

**Ms Godwin**—Given that we have had probably 10,000 individuals in detention over that period of time and for varying lengths of time, I think even that would be a significant amount of work. We will examine it and come back to you. If there is a way of providing you with either that information or something which gives you a sense of the issue, we will certainly be happy to do that, but examining each individual record may be simply too much.

**Senator KIRK**—I said five financial years, but perhaps you could do it just for the past financial year, to give us some sort of guide.

**Ms Godwin**—If we could beg your indulgence, we will have a look at what might be possible and perhaps consult with the secretariat and the chair about what we can reasonably do.

**Senator KIRK**—Please do. That will be fine. I have a question about a detainee, Thaker Abboelias. I understand he is now on Nauru. He was originally placed on Nauru and then went into Baxter and has now been returned to Nauru. Are you familiar with this individual?

**Mr McMahan**—This person was brought from offshore, from Nauru, to Australia, to deal with some medical issues. The person was returned when those medical issues were resolved.

**Senator KIRK**—How long was he in Port Augusta, in Baxter? Was it just during the course of the medical treatment?

**Mr McMahan**—He was in Australia for a little short of six months.

**Senator KIRK**—So why was he returned to Nauru? Was there any reason why he could not have remained in Baxter?

**Mr McMahan**—The simple fact is that he was an offshore entry person who was brought to Australia. We have a regime of medical treatment. Basically it goes from IOM providing services within the centre—and we know that there is a lot of medical support within the centre itself—to patients going to the Nauru hospital and some being treated by visiting specialists. If all of those things do not work—and often it is a case of needing access to specialised medical equipment—then the person is brought to Australia. The person will stay in Australia for as long as they require medical treatment. We have been moving people back and forwards quite regularly over a period of time. Some people have come to Australia more than once for medical treatment. Basically this person had finished their medical treatment so they were returned.

**Senator KIRK**—Was he treated in South Australia in Port Augusta?

**Mr McMahan**—Yes.

**Senator KIRK**—Perhaps you could provide the committee with some figures as to the numbers of people who are moved from offshore facilities such as Nauru to Australia for treatment in any given year.

**Mr McMahan**—I think we have the data. This actually comes under output 1.5; I just do not have the folders with me at the moment.

**Senator KIRK**—Okay, I will leave it till then.

**Mr Davis**—I do have figures here on the numbers who have come to mainland detention facilities. I have a total of 30 who have come and gone.

**Senator KIRK**—During what period?

**Mr Davis**—Since Manus and Nauru have been operating.

**Mr McMahon**—People may have come from offshore to onshore for more than medical reasons.

**Mr Davis**—That is right.

**Mr McMahon**—I believe that this occurred on 26 individual occasions, which would involve slightly fewer than 26 people because a couple of people have been here more than once.

**Senator SHERRY**—That might be a convenient place to stop before we go on to new topic.

**CHAIR**—Indeed, although I think that at the recommencement at 2 p.m. we may have to briefly continue to examine output 1.3 as Senator Bartlett has further questions in that area.

**Senator KIRK**—We do too.

**Senator SHERRY**—We have still got some more questions.

**Proceedings suspended from 12.58 p.m. to 2.02 p.m.**

**CHAIR**—Welcome back to our consideration of output 1.3.

**Senator KIRK**—In relation to the removal of the detainee Thaker Abboelias from Nauru to Port Augusta in South Australia, I suddenly asked myself on what legal basis that was possible. If he is a detainee on Nauru—outside the Australian mainland—and he is removed to Australia, does that in any way affect his immigration status? Has any legal advice been sought on that?

**Mr McMahon**—I think we have gone through this a couple of times. He is not a detainee—certainly not in terms of Australian law. He is an offshore entry person. The question is: will we or will we not provide medical assistance to a person on Nauru? The answer is that the government has consistently decided to provide assistance where the person is in need and it is not available on Nauru. The amendments to the Migration Act which took place 18 months ago or so essentially set up a regime whereby we could bring a person from an offshore entry place into Australia and also remove them. That provides the legal power.

**Senator KIRK**—Could you inform the committee of the particular sections in the amended act so that I can follow that up?

**Mr Williams**—I think it is section 198.

**Senator KIRK**—That in effect creates some sort of exception so that when a person is brought to the Australian mainland they are still considered to be a detainee on Nauru despite the fact that they have been removed to Australia and therefore to the immigration zone?

**Mr McMahon**—It provides us with a legal basis to bring them here and to remove them. But in a sense there is no legal issue in respect of bringing them to Australia. If they want to come to Australia for medical treatment, they are entering on a voluntary basis. The legal issues revolve around what they can do when they get here in terms of being able to apply for things—in other words, whether the offshore entry status is preserved.

**Senator KIRK**—That was my next question.

**Mr McMahan**—And it is. And then do we have a legal basis for removing them? It is under 198B, the power to bring transitory persons to Australia.

**Senator KIRK**—That was my question. If a person made an application for refugee status when they were actually on the mainland during the course of their treatment, what would the status of that application be?

**Mr McMahan**—They do not have any basis for making an application. The question will be whether or not Australia owes them protection. Essentially either they are a refugee already or they are a person for whom a refugee determination process, carried out by either the UNHCR or Australia, has already found them not to be a refugee.

**Senator KIRK**—Thank you. I still have more questions on 1.3, but I am happy for Senator Bartlett to ask questions.

**Senator BARTLETT**—I want to follow up a bit on questions I asked last time on notice, which were answered recently, and also on questions that Senator Allison asked. In the last estimates, Senator Allison asked a question which I think was taken on notice about the incidence of mental illness in children—how many detainees are on sleeping tablets. The answer was given that there was one child on medication for mental illness; two diagnosed with mental illness, including that child; and 42 adult detainees currently on prescribed medication for sleep. I want to check firstly whether those figures included people and children on Nauru. I suspect not, but I am just wanting to clarify that.

**Mr Davis**—Do you have the question number? I can check.

**Senator BARTLETT**—Not for that one; sorry, no.

**Mr Davis**—Is it 69?

**Senator BARTLETT**—I think 69 was mine. Senator Allison's was a different one.

**Ms Godwin**—Sorry, we are just having a bit of trouble with the numbers. According to us, 69 is a question—

**Senator BARTLETT**—That is one that I asked. There is another one in output 1.3 that Senator Allison asked and that was taken on notice at the last hearings. I just wanted to clarify the answer. Perhaps you could take it on notice. I do not want to hold everybody up.

**Ms Godwin**—I think it is 29.

**Mr Davis**—I believe that is onshore detention centres. I do not believe that does include Nauru and Manus. But I do not know whether any children on Nauru or Manus are in that situation.

**Mr McMahan**—The answer is that there were no children falling within that category on Nauru.

**Senator BARTLETT**—Thank you for that. Flowing on from that and the answer I got back to question 69, which was one I asked, it was said that there were no people with severe or chronic mental illness offshore at Nauru as at 13 February. I would have to say that that contrasts fairly significantly with what I was told by health workers on Nauru when I was

there recently—and back in July, for that matter. The answer that you have given—I am just wanting to make sure we have the terminology correct—to me in response to part 3 of my question was that in terms of onshore people there were 27 adult male and seven adult female detainees diagnosed with a mental illness, and then offshore you have none. Does that mean you had no detainees diagnosed with a mental illness on Nauru as at 13 February? Is that what that means?

**Mr McMahan**—That is what it meant, yes.

**Senator BARTLETT**—Can you elaborate on how you define a mental illness—whether severe depression counts as a mental illness—and what your categorisation mechanism is.

**Mr Okely**—I think the question that was raised was, ‘How many had severe or chronic mental illness?’ and the advice that has come back from the medical professionals is that there are no people on Nauru with chronic or severe mental illness. That does not mean, of course, that there are not some people at various times who display some form of depression or anxiety; these people are appropriately treated at the time. But there is no-one there at the present time with chronic or severe mental illness.

**Senator BARTLETT**—I might pursue more to do with the health aspects of people when I get to output 1.5. Thank you for that. The other part of the answer to question No. 69 just gave me the numbers of people who had been released from detention who were on bridging visa Es and who were without Medicare or welfare and entitlements. It said the majority of those were visa overstayers detected in the community. Is there any difference in the criteria used to assess whether or not people can be released on a bridging visa E between visa overstayers and asylum seekers?

**Mr Williams**—Yes, there are. There is a difference between the criteria for people who are unauthorised arrivals compared to people who have been immigration cleared and who have come through an airport with documents and a visa.

**Senator BARTLETT**—So, when they have got to the stage of visa overstaying and have been put in detention, I presume, given the context of the answer to my question on notice No. 69, in terms of releasing them from detention, there are different criteria?

**Mr Williams**—The vast majority of those were people who had been immigration cleared and had received bridging visas after their location by a compliance team. Was that your question?

**Senator BARTLETT**—When you decide to release someone from detention on a bridging visa E—and according to your answer the majority of those people were visa overstayers detected in the community—I presume that you do not release every single visa overstayer automatically, that you do some assessment about whether it is appropriate to release them. Is there a different set of criteria for those people?

**Mr Williams**—Yes, there are. For a visa overstayer who qualifies for a bridging visa broadly, I think it is someone who is assessed as likely to remain in contact with the department and who either has an application for a visa that has yet to be decided or is making suitable arrangements to depart. For an unauthorised arrival, those criteria are not available. Essentially, they are available to people who are under 18 or over 75 or to people who cannot

be cared for in a detention environment on the advice of medical professionals. I think that is generally it.

**Ms Godwin**—The other important distinction in respect of unauthorised arrivals is that appropriate care arrangements have to be in place. That is a requirement of the granting of bridging visa 051. It is essentially a different group of bridging visas available to unauthorised arrivals, as opposed to people who have arrived in an authorised manner.

**Senator BARTLETT**—Are there any statistics for how long people who are on a bridging visa E have been in the community on those visas? Is that breakdown available on notice?

**Mr McMahon**—I have asked for that information but I have not actually got the results back. For your information, we issue about 33,000 bridging visas a year, or at least last year we did. About 22,000 of those are bridging visa A, which means that people were making an application for another substantive visa and they were legal at the time. About 8,000 more of those are bridging visa E, so the scale of issue in respect of bridging visa E is about 8,000 a year.

**Senator BARTLETT**—And you are able to provide those figures?

**Mr McMahon**—Yes. Once we have the information we will provide it.

**Senator BARTLETT**—Thank you for that. Have you already provided today the latest in terms of numbers of people in the different detention centres and that sort of thing? Have you already done that?

**Mr Williams**—We provided that before lunch.

**Senator BARTLETT**—Does that include the numbers of asylum seekers or protection visa applicants?

**Mr Davis**—No, we have not. We provided those separately and I do not have those here with me. We will provide those for you.

**Senator BARTLETT**—If you could that would be handy in terms of trying to get an idea of the proportion. I seem to recall last time it was less than half of the numbers in detention.

**Mr Davis**—It remains less than half, yes.

**Senator BARTLETT**—You had a figure in the annual report of the number of cases that were currently before the courts, which I think comes under this section as well. Is there any update you can give us on that?

**Mr Farmer**—You mean total litigation?

**Senator BARTLETT**—Yes. It was some thousand, from memory. I am just wondering if it has gone up or down since the end of June.

**Mr Storer**—At the present time there are 4,669 active matters before the courts.

**Senator BARTLETT**—I am just trying to look for the right page in the annual report. Is that up or down from 30 June?

**Mr Storer**—As at 30 June, before the courts at that time—

**Mr Evers**—It is up on the 30 June figure.

**Senator BARTLETT**—Do you know how many of those are cases that the department has initiated?

**Mr Eyers**—The numbers would be very small. I do not think I have active cases by applicant but it would be in the two per cent range, if not one per cent.

**Senator BARTLETT**—Are a large bulk of those nearly 4,500 around a similar point of law or are they a wide range of unrelated cases?

**Mr Eyers**—The number of cases that were lodged—

**Senator BARTLETT**—You were saying there are 4,469 that the department is a party to that are still before the courts.

**Mr Eyers**—Yes.

**Senator BARTLETT**—Is a big chunk of those to do with a similar point of law? Are they related cases?

**Mr Storer**—Between 70 and 75 per cent are appeals on protection visa applications following the Refugee Review Tribunal.

**Mr Eyers**—But there are no groups of cases of particularly challenging or identical types of matters, not like the Muin and Lie class actions, which have since been resolved.

**Senator BARTLETT**—This is perhaps more a question for the government—I am not sure—but has any decision been made to pursue any legislative changes following the court decision relating to the privative clause?

**Mr Storer**—I think it is still before the government—what actions they intend to take.

**Senator BARTLETT**—That means no decision has been made, I guess.

**Mr Storer**—No decision has been made yet.

**Senator BARTLETT**—On the issue of children in detention, which has obviously had a lot of focus from time to time, I know the government quite reasonably has been pointing out that there is actually movement to get children out of detention, which there was not under the previous government. I think a statement might have been released last weekend or there were media reports about numbers of children still in detention. I just want to get those figures again for Christmas Island and, I suppose, Nauru if I can sneak that into 1.3 as well as onshore.

**Mr Farmer**—Before we do that, I wonder whether we could, to help the committee, go back to an answer that was given to Senator Sherry before lunch. In fact, one of the figures we gave purporting to be a figure for children was in fact for women and children, so it appeared that there were more children in detention than is the case. Mr Davis has those figures.

**CHAIR**—Thank you, Mr Farmer.

**Mr Davis**—Previously I indicated that there were 43 children in Baxter, Port Hedland and the RHPs—the residential housing projects. In fact, I inadvertently included the women in the residential housing projects in the number. The total is not 43; it is 29. So we have eight children in Baxter, four in Port Hedland and 17 in the residential housing projects either at

Port Augusta or at Port Hedland. In response to your question on Christmas island, we have 15 children on Christmas Island at the moment.

**Mr McMahon**—There are 83 children in the processing centre on Nauru.

**Senator BARTLETT**—Thank you. That clears up the confusion a bit. On the issue of the health of some of those children, statements have been made, particularly in terms of onshore detention, that children have had child protection notifications made about them from, I presume, state government child welfare authorities. Are you able to provide any details about those—whether that is the case, how many notifications have been made and whether they apply to any children still in detention?

**Ms Godwin**—I would like to make a couple of comments before either Mr Davis or Mr Williams, if they have any further specific information. One of the difficult issues around the management of children in detention and the role of state welfare authorities is that it is often stated that there have been notifications when, in fact, they are not necessarily formal notifications that the children need to be removed. We work very closely with state welfare authorities to develop appropriate arrangements for individual children and children generally. It is true that the state welfare authorities will sometimes suggest that there may well be merit in looking for alternative arrangements for families—the children and their parents. Of course, those sorts of recommendations present difficulties for us in legal terms if the parents are not themselves available for release. In those sorts of circumstances, the challenge then becomes to find appropriate alternatives that work with the sorts of recommendations that the welfare authorities are making and that are also legally available to us within the means of the Migration Act. Of course, that is where the residential housing projects and the alternative arrangements in the community have been particularly important, because they have enabled us to offer women and children a range of alternatives while at the same time maintaining the legal provisions of the Migration Act. Where a state welfare authority recommends that a child should be removed from detention and that it is in their best interests to be separated from their parents, those recommendations are followed.

**Mr Davis**—We have one family in that sort of situation from child welfare authorities at the moment and we have one other family who we are seeking to actively place as a family, into community detention perhaps. We and the state welfare authorities are in active dialogue over the arrangements and so forth.

**Senator BARTLETT**—Thank you for that. Where is the case of the Family Court decision from June last year up to? It was the case regarding children in detention that the government signalled it would appeal. I want to make sure I have not lost track of it.

**Mr Williams**—I think that matter is at the High Court stage.

**Senator BARTLETT**—Has it had a hearing; are you waiting for a judgment?

**Mr Williams**—We are waiting for a hearing date, I think.

**Senator BARTLETT**—Thank you.

**Senator KIRK**—Thank you for the figures in relation to the children housed in detention. I wonder if you could perhaps also give the committee a breakdown of their ages and their sexes. I am not sure if you have that information today; you can take it on notice.

**Mr Davis**—I have the sexes of the ones that I have provided previously here but, perhaps if that detail could be provided on notice, it might be better.

**Senator KIRK**—Yes, the up-to-date figures would be helpful. Could you also advise the committee of how many children were born to mothers in detention since the latest figures came out? The latest figures that I have are from 4 November 2003 in the last round of estimates.

**Mr Davis**—We provided a response to the question on notice of eight births in the last financial year. We could provide the figures on notice but I am only aware of one birth in detention in the current financial year. There could be more.

**Senator KIRK**—Okay. Was that in Baxter?

**Mr Davis**—It was actually last weekend in Perth. It was to a Christmas Island detainee in Perth.

**Senator KIRK**—I would also like some data broken down by gender, whether the people are adults or children, nationality, location, length of time in detention and how many of these are completed cases where the applicant is awaiting removal from the facility—quite detailed information. You may need to take that on notice. Is there any information you can give us today? I think you gave us the total number of detainees in detention still.

**Mr Davis**—I do have some raw data here. As at 23 January the largest nationality group was Iranian, followed by detainees from the People's Republic of China, Afghanistan, Indonesia and Vietnam. Those were the top five nationalities in detention as at that date.

**Senator KIRK**—What was the total number of detainees at 23 January?

**Mr Davis**—On 23 January it was 997. We took it on notice to provide some more details on time in detention. Broadly, the time frames are about 35 per cent of those 997 over two years, about 10 per cent between one and two years and just over half less than one year. In terms of gender, at that time out of the 997 we had 141 adult females, 760 adult males, 36 female minors and 60 male minors. But again I note that that is all people in detention, including residential housing projects, alternative detention arrangements and so forth. It includes Christmas Island as well. It is not just mainland detention centres. That 997 covers all those alternative arrangements as well.

**Senator KIRK**—You said that you might also be able to provide location—which centres they are in.

**Mr Davis**—As at 23 January we had 206 at Baxter, 52 on Christmas Island and 82 at Port Hedland. At that time we had 25 recorded for Woomera, which would have been RHP; 69 for Maribyrnong; 19 for Perth; 436 for Villawood; and 108 in other places.

**Senator KIRK**—Perhaps you could take on notice how many of these are completed cases where a person is waiting for removal, either back to their country or to another facility.

**Mr Davis**—Out of the 997, about 385 have no application before the department and are therefore available for removal. Around 307 have gone through all processes and are available for removal. So over two-thirds of the 997 are available for removal either because there is no application to remain in Australia or because they have gone through all processes.

**Senator KIRK**—You said there were 29 children.

**Mr Davis**—Yes—29 in Baxter, Port Hedland and the RHPs.

**Senator KIRK**—So the figures that you gave me then of 36 females and 60 males—

**Mr Davis**—As I said, that covers alternative detention arrangements. Also, that is as at 23 January and the other figure is as at 11 February. There is a timing difference as well.

**Senator KIRK**—So the numbers have gone down considerably.

**Mr Davis**—There has been some movement in that time. We have had some visas granted and we have also had some families leaving Australia.

**Senator KIRK**—So as at 23 January there were approximately 96 children either in detention or in housing projects—

**Mr Davis**—Or in foster care or in other arrangements.

**Senator KIRK**—And as at—

**Mr Davis**—As at 11 February the total number of children in all those arrangements was about 73.

**Senator KIRK**—So the figure of 29 relates to?

**Mr Davis**—Just Baxter, Port Hedland and the two RHPs.

**Senator KIRK**—Does the figure of 73 include Christmas Island and Manus and Nauru?

**Mr Davis**—It would include Christmas Island, Villawood and the other centres as well as alternative detention arrangements, but not Nauru or Manus.

**Senator KIRK**—Could you also provide the committee with the latest figures on the number of children held in detention for more than two years? My most recent figures are as at 7 November 2003.

**Mr Davis**—I do not have more updated figures than what we provided in response to your question on notice.

**Senator KIRK**—My next question was similar—that is, a breakdown by sex of those who have been held for between 24 and 36 months, between 36 and 48 months and for longer than 48 months.

**Mr Davis**—Can we take that on notice?

**Senator KIRK**—Yes, that would be helpful. Of the 73 children who remain either in detention or in a housing facility, could you also provide us with a breakdown of sex and age of those children, if you have those figures here today, or could you provide them on notice?

**Mr Davis**—I do not have them here. I do have 43 males and 30 females, but I do not have ages or any other details.

**Senator KIRK**—Trying to hold all these figures in my head is a bit tricky, so forgive me. How many children are in alternative detention arrangements—is that the figure of 17 that you gave me?

**Mr Davis**—That 17 was for the residential housing projects. I have got 15, as at 6 February, in addition to the residential housing group.

**Senator KIRK**—That takes into account foster care.

**Mr Davis**—Yes, foster care, and some community placements. We have a few in a motel as well.

**Senator KIRK**—That makes a total—the 17 plus 15—of 32. Is that right?

**Mr Davis**—Yes.

**Senator KIRK**—So the number 73 would include children who are on Christmas Island and who still remain in detention centres?

**Mr Davis**—Yes. We have 15 on Christmas Island.

**Senator KIRK**—I am just trying to get it to add up to 73.

**Mr Davis**—Because of the different dates it may not add up exactly. It includes children in Villawood and the turnover in Villawood is constant, so even a week can make a reasonable difference to the figures.

**Senator KIRK**—You said you are going to provide us with the ages of the children being held in those alternative detention facilities as well?

**Mr Davis**—We will see what we can do. One thing we are very conscious of is identification. Providing age as well as sex can sometimes narrow down the identification issues which cause some concern for us, so we will see what we can do.

**Senator KIRK**—How many children remain in detention centres proper? We have managed to extract the ones who are in the residential housing projects and those that are in foster care and motels. How many remain in detention centres proper, including Villawood?

**Mr Davis**—As at 6 February, I have 15 in detention centres. I am sorry, those are unauthorised boat arrivals. Then we have a range of children—I do not have the exact number—comprising cases of compliance, overstayers and others who may have been caught up in those processes. So we have 15 unauthorised boat arrivals, and I do not have to figure for the same date for the other children.

**Senator KIRK**—So that would include Baxter, Port Hedland, Christmas Island, Villawood—all of the offshore centres?

**Mr Davis**—The 15 are Baxter, Port Hedland and Villawood. There were no unauthorised boat arrivals in either Maribyrnong or Perth. Plus the 15 on Christmas Island. The 15 referred to there are the mainland detention centres—and then there are another 15 on Christmas Island.

**Senator KIRK**—I think when I go back over those figures they should all fit together. Thank you. At the last estimates, I also asked some questions—I think they were taken on notice and have now been provided to us—in relation to self-harm acts by children in detention centres—actual or attempted. When I got the figures—which were alarming, but helpful—it occurred to me that there was no distinction between an attempted self-harm act

and an actual self-harm act. I wondered how you distinguish between the two and also what sorts of incidents would fall into each category.

**Mr Davis**—When we talk about actual or attempted, usually the attempted refers to a threat or a comment—sometimes by the parent of the child as opposed to the child themselves. In all these matters relating to children, we take both attempts and threats very seriously. All these matters are referred to the relevant state welfare authorities through our automatic procedures and are focused on and taken very seriously. In terms of the figures provided on the number in the question on notice, the 97 figure relates to incident reports of matters relating to children, not the number of children. Within those 97 reports, there are four reports in particular which are groups of children, where there are a number of children. A number of those relate to the major incidents that have occurred in detention centres in the last few years—voluntary starvation situations and other things. The incident report refers to groups in that context. Within the 97 reports, the data are difficult but we have worked through it a bit more and identified 78 children within the 97 who were involved in some sort of incident. The types of incidents, as I said, go from a threat—it may be a threat by the child or a threat by the parent—including voluntary starvation, to things like cutting a scratch on an arm using a plastic knife and other cuts and abrasions using things just lying around. The important thing that we focus on is that each one of these is focused on—that the children are focused on in terms of the importance of this—and that we work with the families and the parents to deal with the issues that arise. It is true that there are several children who are in several incident reports in terms of multiple incidents relating to one child, and those particular cases are focused on with a high degree of scrutiny by us, our service provider and the state welfare authorities in terms of dealing with the issues.

**Senator KIRK**—So for each of these incidents there is a report prepared—an incident report? Is that correct?

**Mr Davis**—Yes.

**Senator KIRK**—So it would be possible for the committee to be provided with information as to the type of self-harm that has occurred in each of these incidents?

**Mr Davis**—Yes, we could provide that. It is true to say that, in looking at that information, a lot of the incidents may appear to be minor incidents in the sense of what they are, but, as I said, this is a very important area for us to focus on in terms of dealing with even the minor matters that come up here.

**Senator KIRK**—You mentioned such incidents as starvation and scratching on the arm with a plastic knife. What are some of the other examples? How serious were the attempts?

**Ms Godwin**—Just before Mr Davis answers that I would like to clarify the phrase ‘voluntary starvation’. It is just a term that is used in the incident reports. It generally refers to people who claim that they are refusing to eat. In a number of the incidents they are allegations. Somebody has said that they will refuse to eat but in some instances they have been observed eating or are known to have been eating. But, as Mr Davis has pointed out, whenever anyone says something like that it is regarded as a serious issue and it is carefully monitored and followed up. The phrase ‘voluntary starvation’ sounds alarming but it often refers to people who refuse to go to the dining room or say that they are refusing to eat. They

may be eating but not necessarily in the dining room—or something of that sort. Nonetheless, all the reports are collated because, as Mr Davis said, it is not something that we treat lightly, regardless of the circumstances. I will let him go on with the rest of the details.

**Mr Davis**—Predominantly over the last 12 months or so most of the incidents relate to scratches of some form or another using either something like a plastic knife or in some cases a piece of glass or—

**Senator KIRK**—But these are not accidents; they are deliberate self-harm, aren't they?

**Mr Davis**—The way they have been reported, yes, they are self-harm in the sense that some sort of action has been taken by the child to scratch themselves or do something to themselves. Over the last year—I have some information here—predominantly the incidents are of that nature: minor lacerations or scratches, using something that is readily available, by the child.

**Senator KIRK**—What has been the most serious self-harm attempt?

**Mr Davis**—All of the actual self-harms in the last 12 months—and I have a list here—are scratches and the word 'minor' is used in all cases. But, going back further, voluntary starvation and some of the other things that occurred in centres in the past are perhaps more significant.

**Senator KIRK**—Would you be able to provide us with a breakdown of the age, the sex of the child and the nature of the harm incident over the last three years?

**Mr Davis**—We can see what we can do.

**Senator KIRK**—If there are incident reports that should not be difficult.

**Mr Farmer**—We will have to be conscious of privacy.

**Senator KIRK**—You have to be conscious of the identity; I understand.

**Mr Farmer**—Just how we get around that is a matter for us but we will try to be as helpful as possible.

**Senator KIRK**—Even the age of the child and the nature of the incident would illustrate the sorts of things we are looking for. Is it very often that a child will be involved in a repeat incident of self-harm?

**Mr Davis**—A number of children have had a number of self-harms. By far the majority are single incidents for single children.

**Senator KIRK**—In the figures that you provided me with I noticed that there was a significant decrease in the number of self-harm incidents in 2003 compared with 2002. I think there were 58 in 2002 and only 10 in 2003. Do you have any idea as to what accounts for the decrease in the number of self-harm attempts over that 12-month period?

**Mr Davis**—I think we would be speculating.

**Senator KIRK**—Could it possibly be related to the fact that there are more children being held in alternative detention facilities in 2003?

**Mr Davis**—Certainly that means there are fewer children in the detention facilities, but the absolute numbers in detention have also gone down over that period of time. I think that is one factor.

**Senator KIRK**—What sort of action has been taken to prevent these self-harm incidents?

**Mr Davis**—The department has a range of programs and activities to try to motivate and stimulate children in detention. Things like external schooling, and other things that we have been able to achieve in the last little while, have helped get the children out and involved in community activities. The work that began back in 2001 with the residential housing project gives us a different environment in which to care for children in detention. We have also been working with individual families and individual children who may have more significant issues. We have case management plans and work with parents to focus on individual needs. To a large degree, those sorts of things have been focused on for a long period of time in terms of individuals.

**Senator KIRK**—Do you think there is some correlation between the focus on programs and school activities and the number of self-harm incidents? Do you think that it might account for the decrease?

**Mr Farmer**—I think there are a number of things that we could say are responsible for that. A number of the incidents were associated with general disturbances—running through to full-scale incidents—in detention centres over the last couple of years. That sort of incident has been less on the scene now for some time. I think that is one factor that it is important to bear in mind. So I think there are a range of things.

**Senator KIRK**—Has the department undertaken any research into the circumstances surrounding such incidents of self-harm by children? Have any psychological reports been done as to the reasons why children may attempt to harm themselves whilst in detention?

**Mr Davis**—Certainly individual cases have focused on looking at the individual circumstances of children who may be harming themselves or threatening to self-harm. We do not have any system-wide research to point to, but certainly each individual case is focused on seriously by us, their service provider, medical specialists and state welfare authorities in a collaborative way.

**Senator KIRK**—Are the children who have attempted self-harm more likely to be accompanied or unaccompanied minors?

**Mr Davis**—It is actually both. Some of the earlier incidents related to some unaccompanied minors who were later placed into foster care. At the same time, most of these children are accompanied, so a goodly number of incidents are associated with children who are accompanied—children who have parents.

**Senator KIRK**—So there is no real differentiation between the two?

**Mr Davis**—It is both.

**Senator KIRK**—Perhaps you could include that in the figures that you provide me with when you do the breakdown.

**Mr Davis**—We will see what we can do.

**Senator KIRK**—Could you include a breakdown of nationalities in the data that you provide us with as well? That goes to identity?

**Mr Farmer**—Yes, that is something that we need to bear in mind. I think it might be helpful to talk about the number of incidents in the past year and the number of children involved, because that will bring out a couple of points that you might be interested in.

**Senator KIRK**—Yes, I did have a question—which I think is what you are getting at—as to the percentage of self-harm incidents compared to the total child population during those years. That is one thing that was not revealed in the figures you gave me—it just gave the numbers and there was no context in which to put them.

**Senator Vanstone**—That is a bit hard, though, because the population has changed. You can get the number of threats of self-harm or actual self-harm in a one- or two-year period, but what do you pick as the population at that time?

**Senator KIRK**—That is true.

**Senator Vanstone**—Because there would be kids who were returning, kids out in alternative detention et cetera. The numbers have been going down, so I just do not know how you would use your base number.

**Senator KIRK**—It is difficult, but then the same thing happens when you see that there have been 97 incidents and there is nothing to put it against when you do not know how many children have been there.

**Senator Vanstone**—I understand that, and I am sure that the department will do what they can.

**Senator KIRK**—I am really asking for some sort of context.

**Senator Vanstone**—I would have thought that a better figure to ask for—instead of the number of incidents compared to the number of children—if you can find the time, would be the number of children involved in incidents so that you do not count a child three or four times, even though there are only a few of them.

**Senator KIRK**—Yes, although I think you said that there were 78—

**Mr Davis**—In the last three years, yes.

**Senator KIRK**—and most of them were single incidents.

**Mr Davis**—The overwhelming majority were single incidents involving single children.

**Senator KIRK**—Finally, could you advise the committee whether there is any correlation between the length of time a child is held in detention and whether or not they are more likely to engage in self-harm.

**Mr Davis**—I will see what I can do.

**Senator KIRK**—It is tricky, yes. I will leave that one with you.

**Mr Farmer**—We will do that one on a best endeavours basis.

**Senator KIRK**—I would be happy for that.

**Senator Vanstone**—You disappoint me, Senator. I thought you were going to come and ask questions about how long kids were detained under the previous government at Port Hedland and how many hundreds were there and why they did not have alternative detention measures—

**Senator KIRK**—But we are only concerned with this round of estimates, Senator.

**Senator Vanstone**—Often context does help. You said your previous question was about context—

**Senator KIRK**—I shall do some research.

**Senator Vanstone**—I can help you with that. Hundreds there were, actually. There were hundreds of children in detention at Port Hedland—just to help you there.

**Senator KIRK**—Thank you for that, Minister.

**Senator Vanstone**—Some for over four years.

**Senator KIRK**—I think the remainder of questions in 1.3 we will put on notice.

**CHAIR**—What a good idea, Senator Kirk. Does that mean we can move on to 1.4? This is my ruthless attention to numerical detail. Oh, we can't, Mr McMahon. You are going to stop me.

**Mr McMahon**—Before we leave 1.3, Senator Ludwig had asked us through the secretariat to check some information about Omar Abdi Mohamed and come back and so I just want to very briefly give that information.

**Senator KIRK**—He will be very keen to receive that.

**Mr McMahon**—Firstly, we do have an audit trail of hits against individuals. Essentially, there were two lots of hits which seemed to have been associated almost simultaneously with the visa issue in November 2001 and January 2003. There is no record of any hits by any organisation until 29 January 2004. I was reminded earlier that, although we had been advised that the AFP may have been involved, it was subsequently cleared up that there was no information on their involvement and that the AFP itself has apparently said that it has no record of ever having made a request. That is really all I can comment on. In essence, all the other information is really from a third party, which is ASIO, and I think that if there are any further requests about that from the US Embassy it really does need to be directed there.

**Senator LUDWIG**—Thank you.

[2.58 p.m.]

**CHAIR**—That concludes questions in 1.3. I will be guided by members of the committee in relation to 1.4, Safe haven, and whether there are matters you wish to pursue under that.

**Senator BARTLETT**—How many people have we now got on safe havens? It says 18 in the annual report—is it still that?

**Mr Hughes**—On the safe haven subclass 449 visa we have 22 people and 36 holding the subclass 786 temporary humanitarian concern visa.

**Senator BARTLETT**—The annual report under output 1.4 says 18 people at 30 June. Have we had four more go on it since then?

**Mr Hughes**—That is correct.

**Senator BARTLETT**—Where are they from?

**Ms Bicket**—The additional four people are Kosovars to whom the minister has granted a further short period of stay in order for them to be able to make their departure arrangements. They were previously on subclass 786—the temporary humanitarian concern visa.

**Senator BARTLETT**—Haven't those people been here for a while, though?

**Ms Bicket**—They have indeed.

**Senator BARTLETT**—How are they extra? Were they on something else and then brought back on to safe haven?

**Ms Bicket**—Yes, that is right. They were originally on the Kosovar subclass 448. They were subsequently extended for stay on the 786 temporary humanitarian concern visa. Then, because there was the request for a short period of stay in order to make their departure arrangements, they were brought back onto the 449 humanitarian temporary stay visa.

**Senator BARTLETT**—So you are expecting them to depart soon?

**Ms Bicket**—Yes.

**Senator BARTLETT**—What was the other number on the 786 visa?

**Ms Bicket**—There were 36 people on the 786 temporary humanitarian concern visa.

**Senator BARTLETT**—You had 28 people on the 786 visa at the last estimates in November, so you have had a few add-ons there as well. Are they new arrivals or are they people being reclassified?

**Ms Bicket**—I would have to check, but I believe all of them are people moving from one visa to another who were already in Australia. I will have to check on the exact circumstances of each case to give you a definitive answer.

**Senator BARTLETT**—Of that 22, leaving aside the four you have mentioned, are the 14 Ambonese still here?

**Ms Bicket**—Yes.

**Senator BARTLETT**—Are there any plans that you are aware of to reclassify their status?

**Ms Bicket**—No.

**Senator BARTLETT**—They are continuing on?

**Ms Bicket**—Indeed.

**Senator BARTLETT**—How long does that make it now since they first came here?

**Ms Bicket**—That particular group of 14 people arrived on the boat known as the *Busselton* on 21 January 2000.

**Senator BARTLETT**—Their visa comes up again in March.

**Ms Bicket**—That is correct. Towards the end of March—I think it is around the 29th.

**Senator BARTLETT**—When does the decision get made about what to do with them? Do you wait until just before?

**Ms Bicket**—The normal circumstance is to wait until close to the time of the expiry of their visas so that we have the most up-to-date information.

**Senator BARTLETT**—Thank you.

**Senator SHERRY**—What is the annual quota level for offshore humanitarian refugee visas at the present time?

**Mr Hughes**—This is back to output 1.2, Refugee and humanitarian entry and stay.

**Senator SHERRY**—Is it? Then perhaps you could take that on notice.

**Mr Hughes**—It is, by the way, 12,000 new places.

**Senator SHERRY**—I thought it was 12,500.

**Mr Hughes**—No, it has been 12,000 new places since 1996-97.

**Senator SHERRY**—I will put my other questions on notice. I have no further questions in this area.

[3.04 p.m.]

**CHAIR**—If there are no further questions on output 1.4, thank you Mr Hughes and Miss Bicket. Let us then move to output 1.5, Offshore asylum seeker management, where I am confident there are questions. These are questions that pertain to Manus Island, Nauru and so on.

**Senator SHERRY**—I have some questions about Manus Island first. How many people in total have been detained on Manus Island?

**Mr Farmer**—We go through the semantics thing all the time on this. It is not a detention centre; it is a processing centre.

**Mr McMahan**—From memory, 356 people were on Manus Island.

**Senator SHERRY**—That is at the moment?

**Mr McMahan**—No, there is no-one on Manus.

**Senator SHERRY**—Is that in total over the time?

**Mr McMahan**—There were 356 there at its peak.

**Senator SHERRY**—That was my next question. What was the total number that went through Manus?

**Mr McMahan**—I think it was 356. Essentially we brought one group, we brought a second group and then there was a dissipation of that group over time.

**Senator SHERRY**—Of those people who were detained on Manus Island, how many have received protection and live in Australia?

**Mr McMahan**—That is a break-up we probably do not have with us. I can tell you the overall numbers, but you want the numbers for Manus in particular.

**Senator SHERRY**—Yes. I am about to go into a bit of a category breakdown.

**Mr McMahan**—It is also complicated by the fact that many of the people on Manus were brought to Nauru, so you get a mixing of the population. It may well be possible to go back

through records and find it; but it is not going to be a total that we immediately have, because some of the people who were taken from Manus would not have got refugee status until they were on Nauru.

**Senator SHERRY**—Let us deal with those who came to Australia rather than went through to Nauru. Do you have the number that I asked for in that category?

**Mr McMahon**—Australia has resettled 379 refugees. There were a total of 751 overall.

**Mr Okely**—According to the records I have here, only one person from Manus has been resettled in Australia.

**Senator SHERRY**—That is with permanent protection?

**Ms Bicket**—One person came from Nauru with a permanent visa. All of the remaining people who have been resettled in Australia have been resettled on temporary humanitarian visas.

**Senator SHERRY**—What is the number in that temporary protection category?

**Ms Bicket**—It would be 378 out of the 379.

**Senator SHERRY**—There are none from Manus living in Australia with bridging visas?

**Ms Bicket**—Not to the best of my knowledge.

**Mr McMahon**—No. There would be no basis for bringing them. Either they would be brought on a visa or they would be in detention.

**Senator SHERRY**—Of those people who came to Australia, how many are no longer in Australia?

**Ms Bicket**—We would not know. People are free to depart from the country if they wish to, so I would not have those figures readily available.

**Mr McMahon**—We would have to get each name and then go through movements records. I will produce it.

**Senator SHERRY**—What is the number of those who have failed asylum assessment and remain in detention—but we will not use that word, will we, Mr Farmer?

**Mr Farmer**—Remain in the centre.

**Senator SHERRY**—In the centre, yes.

**Mr McMahon**—There are 277 people on Nauru at the moment. Four of those are currently regarded as refugees.

**Senator SHERRY**—What was the highest number on Nauru?

**Mr McMahon**—It was eleven hundred and something. I cannot remember the number offhand. In total, 1,535 people have been through the centres.

**Senator SHERRY**—You mention an approximate figure of 1,100. When was that?

**Mr Okely**—At 30 June 2002 the number was 1,087.

**Senator SHERRY**—With respect to Nauru, how many have come to Australia and received permanent protection?

**Ms Bicket**—The figure that I gave you before of 379 was in relation to all persons brought to Australia from both centres.

**Senator SHERRY**—Do you have a breakdown of that?

**Ms Bicket**—The figures I have available, and keeping in mind Mr McMahon's point that there were some people who moved from Manus and so forth, are that there were 132 persons who had come from Manus and the remainder had come from Nauru.

**Senator SHERRY**—And that is temporary protection, living in Australia?

**Ms Bicket**—That is right.

**Senator SHERRY**—None with bridging visas from Nauru?

**Mr McMahon**—No.

**Ms Bicket**—No, it is not applicable in this particular circumstance.

**Senator SHERRY**—What is the number in a detention facility at the present time?

**Mr McMahon**—People at the offshore processing centre?

**Senator SHERRY**—Yes.

**Mr McMahon**—Two hundred and seventy-seven. There may be two people in Australia. People come and go from Australia in respect of medical type issues.

**Senator SHERRY**—What about in detention in Australia from Nauru?

**Mr Davis**—I believe there is one at the moment.

**Mr Okely**—The people actually brought from Nauru for medical attention in Australia would probably stage through one of the detention centres.

**Senator SHERRY**—How many of the people in detention on Nauru at the moment have applied to Australia for asylum or protection?

**Mr McMahon**—They make the application for protection; they do not actually make an application for protection to a particular country. As far as I know, everybody—the whole 1,535 of them—has been assessed at some stage.

**Senator SHERRY**—How many DIMIA staff are based on Nauru at the moment?

**Mr McMahon**—We have two DIMIA staff: one person who looks after the visa office and one person who basically is a DIMIA liaison person in respect of the centre.

**Senator SHERRY**—I assume there are Department of Foreign Affairs and Trade staff on Nauru as well.

**Mr McMahon**—Yes, there is a consul and either one or two assistants.

**Mr Okely**—There is one vice-consul and I think AusAID also have a representative there at the moment.

**Senator SHERRY**—Do they undertake DIMIA inquiries if required?

**Mr McMahon**—Sometimes we will ask them, but not in respect of the normal visa type of arrangements. But if, for example, we had a concern about the centre or something or if we may be wanting an interpretation under the current agreement or whatever, we would

certainly task DFAT and the consul would progress the matter with the president or the government there.

**Senator SHERRY**—How long have the DIMIA staff been based on Nauru?

**Mr McMahan**—They have been there since the start of the centre, basically, in 2001. We do it on a short-term posting basis, so most people are not there for any longer than two to three months.

**Senator SHERRY**—So it is not considered a permanent overseas post?

**Mr McMahan**—It is not, from our point of view, no.

**Senator SHERRY**—How long does the department consider DIMIA staff will be based on Nauru?

**Mr Farmer**—As long as necessary, Senator.

**Senator SHERRY**—As long as necessary until the individuals in the centre are—

**Mr Farmer**—While there is a liaison or other function to perform there, bearing in mind also that we have a person there working on visa matters as well.

**Senator SHERRY**—Do you know how many IOM staff are working at the facilities on Nauru?

**Mr Okely**—Presently there are 44 IOM staff.

**Senator SHERRY**—And Chubb Security?

**Mr Okely**—I do not have the number for Chubb Security; I will take it on notice and get that for you.

**Senator SHERRY**—With regard to accessibility to DIMIA staff, how do the detainees contact the DIMIA staff on the island?

**Mr Okely**—Residents of the OPC would ask to see the DIMIA officer through the IOM staff.

**Senator SHERRY**—Where are the DIMIA staff officers in respect of the centre?

**Mr Okely**—The staff offices are in the Menen Hotel.

**Mr McMahan**—There are only two hotels on the island.

**Senator SHERRY**—It is not a big island, is it?

**Mr Okely**—No, and it is not a big hotel.

**Senator SHERRY**—But there are two. We will not go into why they are in one hotel and not the other. With regard to the nature of the liaison between DIMIA officers, DFAT officers, IOM staff and the Chubb staff, how does that chain of liaison operate?

**Mr McMahan**—The other player there is the APS. Essentially IOM runs the centre. In effect, they are contractors to us. They provide a service and, in the end, we pay the bill. A range of things can happen from time to time—it may well be, for example, that, if you go into another stage of refugee application assessment or something, that person will be there talking about the preparations of teams coming from Australia. They are providing a service

to us; therefore, we want to be reasonably close to the ground to discuss issues that might come out of that very broad contractual arrangement. But they do not get involved in the day-to-day running of the centre.

**Senator SHERRY**—How many APS staff are there?

**Mr McMahan**—It has ranged quite a bit over a period of time. I suspect there would be around—as a guess—15 people or so.

**Mr Okely**—There are 17.

**Mr McMahan**—There are 17, but it has come and gone. It has been as low as 13 and it has been up to 30.

**Senator SHERRY**—So, if a detainee wants to contact a DIMIA or DFAT officer to discuss their case, where does their initial inquiry go?

**Mr McMahan**—Normally they would make contact with IOM to say that they wanted to talk to a DIMIA officer and, depending on the nature of the inquiry, we would make up our mind whether or not we would attend. For example, we would not go up there to talk about the dinner arrangements for the day, but we might go up there to talk about a substantive visa issue.

**Senator SHERRY**—Can the detainees contact DIMIA or DFAT officers directly, without going through IOM?

**Mr Okely**—That would occur only if the officer were in the centre at the time; otherwise, they cannot.

**Senator SHERRY**—The 2002-03 budget indicates \$1.4 billion would be devoted to preventing asylum seekers from being able to seek asylum within Australia's migration zone. Is it correct that \$430 million of that has been allocated over four years for the reception and processing of asylum seekers on Nauru and Manus?

**Mr McMahan**—No, I think there is a difference between appropriation and the actual expenditure. The appropriations have always been based around the assumed level of arrivals, and that changed from 5,000 to 2,500 and in the last budget to 1,000. You could say that it is just an assumption about what the effect might be on the budget. The actual effect on the budget is quite different. To the end of this year, since the beginning of the centres, our estimate would be that probably around \$170 million has been expended on the centres.

**Senator SHERRY**—Is it correct that the appropriation was approximately \$430 million but that \$170 million has been spent to date?

**Mr McMahan**—That sounds about right. Did you say \$430 million?

**Senator SHERRY**—Yes, that is for Manus and Nauru. I see another officer approaching.

**Mr McMahan**—Before the end of the session we will get back to you but I recall that it was something of the order of \$470 million.

**Senator SHERRY**—Does that figure include the cost of DIMIA and DFAT staff on Nauru?

**Mr McMahan**—It includes the cost of DIMIA staff and all the APS staff but essentially the costs relating to DFAT are met by them and AusAID. They are there for reasons other than the centre.

**Senator SHERRY**—Do you have a cost per detainee per day on Nauru?

**Mr McMahan**—No. What number would you pick? Of course, if you have a centre at Manus for contingency reasons or whatever you basically have the infrastructure to take 2,500 people.

**Senator SHERRY**—I understand that but we were able to be given information about the costs per person per day in respect of Australian centres.

**Mr McMahan**—That is because there is a contractual arrangement which is based around the number of people and that contractual arrangement scales up and down. So if there are 600 in a centre it might be \$140 a night and if there are 500 it would be \$150 or whatever. The centres offshore are run very differently; the infrastructure is provided to house the people. We do not pay on a per unit basis, so the calculation has never been particularly relevant.

**Senator SHERRY**—So it is a fixed cost regardless of the numbers?

**Mr McMahan**—It is a relatively fixed cost. There would be a marginal impact on it.

**Senator SHERRY**—Does the \$75.4 million for the regional cooperation agreement include the IOM's responsibility for detainees on Nauru?

**Mr McMahan**—No, it does not. I cannot talk in broader terms of that arrangement. The IOM costs are met directly from the amounts that I gave you.

**Senator SHERRY**—What is the cost of the IOM contract for Nauru?

**Mr McMahan**—I do not think I have totalled up each of the individual amounts but we could readily do so. The great majority of the \$170 million—I would guess \$140 million or so of it—is in respect of IOM. Some of that money goes, as we discussed earlier, to the capital type things that they do there. Very little of it is going directly to IOM; it is mainly payments to providers et cetera. The table that I have here suggests that the payments to IOM have been about \$122 million.

**Senator SHERRY**—I think you told me earlier the number of detainees on Nauru since its establishment.

**Mr McMahan**—I mentioned 1,545 but that was overall in the centres. The figure is 1,100 or 1,200—something of that nature.

**Senator SHERRY**—Do you have a breakdown of the length of time detainees have spent on Nauru?

**Mr McMahan**—It is pretty simple when you think about it. Essentially, these are all people who were moved in a two- to three-month period from August 2001. Basically they were moved in September and October; there may have been a few subsequent movements.

**Senator SHERRY**—My next question will probably need to be taken on notice. I want to know the details of detainee movement from onshore-offshore detention to Nauru: dates, gender, country of origin, transferring from what detention facilities onshore and offshore.

**Mr McMahan**—We would have to take that question on notice. In effect, the great majority of them came off Christmas Island or were on-sea transfers.

**Senator SHERRY**—How many detainees from Nauru have been granted permanent or temporary residence by New Zealand?

**Mr Okely**—Senator, 786 have been resettled from Manus and Nauru; Australia has taken 379 and New Zealand 370. A further 37 have been resettled in other countries. I would like to correct an earlier figure that was put forward: I think there were two refugees, not four refugees, still to be resettled from Nauru. That will happen very soon.

**Senator SHERRY**—Of those groups, how many of the detainees have been assessed and approved as refugees by the UNHCR?

**Mr McMahan**—I do not have the number here but essentially UNHCR only did a first batch—the number is about to arrive, but it was 200 to 300.

**Ms Bicket**—The figure I have available is that 273 persons were determined by the UNHCR to be refugees.

**Senator SHERRY**—What was the number assessed and rejected or approved as refugees by DIMIA?

**Ms Bicket**—The number assessed as refugees by us was 172 on Nauru and 306 on Manus. I would have to consult a colleague about the broader figures on assessments.

**Senator SHERRY**—What role did Australia play in having New Zealand undertake responsibility for these people?

**Mr Killesteyn**—Essentially, New Zealand made decisions under their own humanitarian program to resettle these people. We would obviously liaise closely with the New Zealand officials from the immigration office there in making arrangements.

**Senator SHERRY**—Has there been any cost to Australia for New Zealand accepting these people—for example, transportation, any resettlement housing, English language training and matters of that like?

**Mr Killesteyn**—Yes, there has. I cannot give you a figure; I do not know whether any of my colleagues have that figure, but there certainly have been some expenses that the Australian government has paid for, including of the type you have mentioned, such as transportation.

**Senator SHERRY**—Would you take those figures on notice, whatever they may be. Are they included in the total overall figure of expenditure to date in respect of Nauru?

**Mr Killesteyn**—They would be.

**Mr McMahan**—The amounts are quite small but we can pull them out.

**Senator SHERRY**—How many of these people have family in Australia?

**Mr Farmer**—Which people, Senator?

**Senator SHERRY**—The people resettled in New Zealand.

**Ms Bicket**—I do not have figures available on what the particular family disposition is.

**Senator SHERRY**—Are you able to advise how many detainees were involved in the hunger strike that took place over the Christmas period?

**Mr Okely**—At the peak, 45 were involved.

**Senator SHERRY**—Were there any special arrangements entered into to care for those people?

**Mr Okely**—The IOM manage the centre, and they made extensive provisions to care for the hunger strikers during the course of the hunger strike. They provided access to food if they wished, access to water, shaded areas and respite facilities for people who needed to be rehydrated. Medical staff were on hand at all times. In other words, very close scrutiny and the absolute maximum facilities were provided. Those who became dehydrated and did not wish to be rehydrated at the centre could be taken to the Nauru hospital, and there was quite a passage of people through the hospital being rehydrated.

**Senator SHERRY**—Would any additional resourcing that Chubb or IOM have required during that period been costed back to DIMIA?

**Mr Okely**—It would have, yes.

**Senator SHERRY**—What was the number of people who required medical attention from the Nauruan medical facilities during that period?

**Mr Okely**—I cannot quote the figure. I will have to go back and find it. There were quite a number of people who were repeat visitors to the hospital. Some came back as many as six times, some two or three. Some did not come at all. I will have to get the figures and take that on notice.

**Mr McMahan**—I would make the observation that many of the people who went to the hospital did not require hospitalisation. It was a matter of policy to try to take them to the hospital and away from the centre.

**Mr Okely**—They actually went of choice; they asked to go.

**Senator SHERRY**—Were some of the hunger strikers moving from the facility to the hospital and back again?

**Mr Okely**—Yes.

**Senator BARTLETT**—And are you saying you took them to the hospital because they asked?

**Mr Okely**—In most cases that was the case. I believe there was one instance where a person became unconscious and required hospitalisation. But that was the only incident.

**Senator SHERRY**—Did DIMIA provide assistance to the Nauru medical services prior to and during the hunger strike?

**Mr McMahan**—I think you need to consider that there is quite a bit of liaison that takes place between the IOM and the hospital system itself. Also, AusAID is providing extensive assistance to the Nauruan hospital system. I think it is fair to say that we believe it was in hand. Some of the comments that were made were to our surprise, but we immediately responded to the fact that there were concerns.

**Senator SHERRY**—Where detainees were in the hospital, was there a cost that the department had to pay directly or indirectly through IOM?

**Mr Okely**—It was an indirect cost. The nursing staff were under some pressure and there was an arrangement whereby nursing staff would work double shifts and IOM met that cost. Of course, they will be charging that cost back to us.

**Senator SHERRY**—Prior to the hunger strikes, were there any arrangements in place with the Nauru medical services for one-off medical emergencies or ongoing medical needs for individual detainees?

**Mr Okely**—There has always been an understanding between IOM and the hospital that where cases require hospitalisation the hospital will take them and treat them. That is very much on a recompense basis.

**Senator SHERRY**—Minister, we have had about 10 minutes of questions on this. Do you still claim that detainees on Nauru and Manus are not the responsibility of Australia?

**Senator Vanstone**—I will provide you with the transcript of the interview I did. You can make your own assessment about the ABC's use of that transcript. What I did say on a number of occasions is that these people are not in Australia—that is true—and that IOM run the centre under contract to the Australian government. I will dig out a transcript of the interview.

**Senator SHERRY**—Given what we have heard in the last five or 10 minutes it would appear a lot of responsibility is taken by the Australian government.

**Senator Vanstone**—That is right. But, as I say, I will give you the transcript of that interview and you can judge for yourself.

**Senator SHERRY**—Minister, the *West Australian* of Saturday, 7 February refers to the estimated running cost of Manus as \$1.4 million. That was your response to claims of a \$4.3 million figure—that is, about one-third. Is that broadly accurate?

**Senator Vanstone**—I think those figures were six monthly figures, if I recall correctly. Not every paper that ran those figures understood or ran the fact that they were six monthly figures.

**Senator SHERRY**—I thought it was a fairly spectacular headline.

**Senator Vanstone**—There have been a few fabulous headlines.

**Senator BARTLETT**—Before I ask questions on Nauru specifically, does Christmas Island come under this output?

**Ms Godwin**—From a management perspective we treat it as part of the onshore detention program because it is subject to all of the normal legislative provisions that apply to detention in Australia. For management purposes the questions go to Mr Davis and for budget management purposes they go to Mr McMahon.

**Senator SHERRY**—It is a hybrid.

**Senator BARTLETT**—I am not sure I am any clearer. I was not here for all of output 1.3, so I apologise if somebody has asked this question. What is the status of the people who are

currently there—the Vietnamese people who arrived? They all applied and were unsuccessful at the primary stage and sought review of that. Where is that at and what are the numbers?

**Mr Davis**—The detainees on Christmas Island are all Vietnamese. They all arrived together. As at 11 February there were 52 of them although I believe a couple came to Australia last weekend for the birth of a child. So there are around 50.

**Senator BARTLETT**—The annual report says that the number of individuals accommodated during the year was 64.

**Mr Davis**—That is for the 2002-03 financial year. The 50 or so who are there now arrived at the centre on 5 July, so they were not covered in the 2002-03 year. The number in the annual report, 64, relates to detainees who were there previously. The centre was closed in February when the last of the detainees already there either went home or moved.

**Senator BARTLETT**—None of the 50 or so of the Vietnamese group that we just touched on were successful at the primary stage. Are they all seeking review?

**Mr Killesteyn**—That is correct, Senator.

**Senator BARTLETT**—And they have not had a review determination yet?

**Mr Davis**—All were refused a primary and are awaiting RRT consideration. They have all appealed.

**Senator BARTLETT**—So they are before the RRT then?

**Mr Davis**—Yes.

**Senator BARTLETT**—I am probably just getting my terminology confused again, but table 1.5.2 in your annual report, under the heading ‘Results’, mentioned 57 asylum seekers whose claims were assessed in excised offshore places and nine were assessed as requiring refugee protection. That is not Christmas Island, is it? That is Indonesia or something; is that right?

**Mr Davis**—It probably would be Christmas Island. It is certainly not Indonesia.

**Senator BARTLETT**—It might be those earlier groups then.

**Mr Davis**—Those figures on the table would relate to Christmas Island.

**Senator BARTLETT**—Okay. It says in there as well that Cocos Island quarantine station is mothballed as a contingency facility. Is that still the case?

**Mr Davis**—Yes, it is available if we need it in a contingency situation.

**Senator BARTLETT**—In terms of the arrangement with IOM where they are contracted to manage the facility in Nauru, as they are with Manus, is that contract just open-ended? Is there any time frame whereby it needs to keep being renewed?

**Mr McMahon**—It is an exchange of letters, which we have tabled.

**Mr Killesteyn**—But it is open-ended, yes.

**Senator BARTLETT**—Is there any indication from IOM’s side of things that if they wanted to change the arrangement at all or were wondering about how long this was going to continue it would be a matter of negotiation about changing arrangements?

**Mr Killesteyn**—That is correct. But at this stage IOM are continuing to provide services and we continue to be satisfied with the services that they provide.

**Senator BARTLETT**—The 277 people that you mentioned before—and you said that four of them had been assessed as refugees—back in the November estimates—

**Mr McMahon**—That was corrected to two.

**Senator BARTLETT**—There are two people there now who are refugees?

**Mr McMahon**—Yes.

**Senator BARTLETT**—You mentioned in the November estimates that there were four people there who had been assessed as refugees. Are those two the same people?

**Mr McMahon**—Yes.

**Senator BARTLETT**—You said at the time that they were a priority in terms of resettlement, and I assume that would be the case with somebody who is assessed as a refugee. How much longer are they expected to wait on Nauru if they were assessed last year?

**Ms Bicket**—I understand that the two people concerned are UNHCR mandated refugees and that the UNHCR is pursuing resettlement options for them. We do not have an indication at this point in time as to how long that process might take.

**Senator BARTLETT**—If it is going to be a long period of time—and these people are basically in detention, in effect; without getting into the nuances of it—which is not desirable for anybody, particularly if they have been assessed as refugees, then is there any scope for them to be brought to Australia under some sort of safe haven arrangement or something?

**Ms Bicket**—As they are UNHCR assessed cases they are pursuing the resettlement options with other countries. My understanding is that they have actually approached another country at this point in time. We would await the outcome of those inquiries.

**Senator BARTLETT**—Have any out of that 277 received indication that they will be resettled in New Zealand and are just waiting to go?

**Mr Okely**—The process of people being resettled in New Zealand is being pursued through UNHCR so it would for the UNHCR or the New Zealand government to advise those people. Quite frankly, I do not know what stage that has reached.

**Senator BARTLETT**—About three weeks ago the New Zealand government announced they would take another 20 people. Australia would be aware of who those people are, I presume, and whether or not they have left yet.

**Mr Okely**—We are aware of the people in whom New Zealand is interested, yes.

**Senator BARTLETT**—So have they all left yet?

**Mr Okely**—No, nine have departed for New Zealand, and arrangements are being made for the balance, I understand. Again, those arrangements are being made by New Zealand and the UNHCR.

**Senator BARTLETT**—So it is the position of the department or the government that those 275—minus the 11 who are going to New Zealand, so 264—have all been assessed fully and none of them meet the criteria of ‘refugee’.

**Mr Okely**—Of the 275, no.

**Senator BARTLETT**—But those people who are going to New Zealand are going through UNHCR. My understanding of New Zealand's program, where they take a quota of 750 a year, is that they will only take people who are mandated through UNHCR. Are you saying that they are mandated through UNHCR but are not refugees—they have some other status?

**Ms Bicket**—I obviously cannot speak on behalf of the New Zealand government, but my understanding of their program is that, like our program, there is some leeway in terms of taking people of humanitarian type status provided they are referred by UNHCR.

**Senator BARTLETT**—For broader humanitarian protection?

**Ms Bicket**—That is right.

**Senator BARTLETT**—What is the situation with the next stage of agreement with the Nauru government linked to the MOU that expired last July? Has the next stage been agreed to yet?

**Mr McMahan**—It was agreed around December last year that it would be extended on an interim basis until another agreement was put in its place. Discussions are still taking place around that other agreement.

**Senator BARTLETT**—Is that conducted through DIMIA or DFAT?

**Mr McMahan**—Actually there will be a delegation going, including Mr Okely here. Essentially it is led by DFAT.

**Senator BARTLETT**—Last November at estimates you said there was consideration being given to relocating everybody to State House camp by around this time. Is that now not going ahead?

**Mr McMahan**—Most of the people have been moved out of State House. There are a few more who have indicated that they want to come out; there is just a small group of people who have indicated that they would like to stay in there. IOM has basically obliged. We do not have the numbers here.

**Senator BARTLETT**—I think there were four in State House when I was there three or four weeks ago.

**Mr Okely**—It is a very small number. Essentially State House is being used at the present time as a respite facility for people who just want a bit of time out from Topside. If there were four there when you were there, that is about the number—

**Senator BARTLETT**—Back in November, there was some consideration of scooping everybody out of Topside and putting them all in State House.

**Mr Okely**—That is correct.

**Senator BARTLETT**—Have you backed away from that or is that still in there amongst the mix of options?

**Mr McMahan**—I think they have just maintained their flexibility there for the moment.

**Senator BARTLETT**—I will just try to get as clear a picture as I can about the situation with the Afghanis on Nauru, who are the majority of people there. About 200 people are

Afghani, give or take a few. Just to clarify my understanding, UNHCR is reassessing the *Tampa* people who were part of that initial grouping—I think that is 22 people, if my memory is correct—based on change in circumstances in Afghanistan. The understanding I got from DIMIA officers on Nauru was that DIMIA would then look at the latest information from UNHCR and look at whether or not that triggered any need to reassess the rest of the Afghani cohort. Is my understanding correct, as I have explained it?

**Mr Hughes**—Your understanding is correct.

**Senator BARTLETT**—There you go. There is a first time for everything!

**Mr Hughes**—Against the country information provided by UNHCR to date, we are looking to see if any of our cases of 182 people are affected by that information. We are also expecting an updated and consolidated analysis from UNHCR at the end of February, which will allow us to have the latest position. We actually have a team of people in Nauru at the moment, which is starting this process of talking to people who are affected by the new information.

**Senator BARTLETT**—So there is a team of DIMIA people in Nauru now who are at the start of that process—is that what you are saying?

**Mr Hughes**—That is correct.

**Senator BARTLETT**—Are UNHCR there at present as well?

**Mr Hughes**—They were to have gone there this week but I believe they have delayed their arrival by a week.

**Senator BARTLETT**—Is DIMIA waiting for the latest updated info from UNHCR before doing a full reassessment?

**Mr Hughes**—We have said that we will start the reassessments now, but we will make sure that no-one is excluded from the possibility of reassessment. Not everyone would necessarily get a full reassessment but we will make sure no-one is excluded from the possibility of reassessment until we get the consolidated report that we expect from UNHCR. UNHCR are taking a similar position. They are going to start with what they have got but they will not exclude anyone until they get the report from their headquarters, which will be based on reports from their representatives throughout Afghanistan.

**Senator BARTLETT**—So it does not necessarily mean that you will be reinterviewing everybody; you will just take the newest information and run that past everybody's files and then see whether or not you need to do anything extra from that.

**Mr Hughes**—That is correct. However, we will even talk to people who are not ostensibly affected by the new information to let them know, in fact, that the new information does not affect them and to ask them if they have any other issues that they want to raise with us.

**Senator BARTLETT**—Assuming you have got the latest information by the end of the month, as you are hoping, do you have a rough idea of how long it would take to examine all of the people again?

**Mr Hughes**—It is very hard to say when it is based on an unknown document, the extent of which you are not familiar with. I would certainly hope that it would be a matter of weeks

in which we could reach a final conclusion, but I do have to point out that there are 182 people involved in our circumstance, compared with 22 with the UNHCR, so it is a significant number.

**Senator BARTLETT**—Would any that are found to then meet the refugee criteria be automatically accepted by Australia or would they go into a general pool to see if any country might take them?

**Mr Hughes**—That will be a matter for decision at the time as to how many there are. There is a practice that usually takes place with international resettlement which means that people are often referred to countries where they have links. For example, depending on any found to be refugees having links in Australia or elsewhere, their desirable resettlement destination would be looked at at the time.

**Senator BARTLETT**—Nobody has been removed involuntarily from Nauru as yet?

**Mr McMahan**—No.

**Senator BARTLETT**—Obviously the re-examination of the Afghanis raises an issue for all the others that are there, the Iraqis in particular, of whom I think there are about 50. I know the general position has been to try to make these people aware that there is no resettlement option for them but, given the situation with TPV holders from Iraq in Australia and the lack of progress and the lack of certainty about the circumstances in Iraq, is there any consideration being given to the group of people from Iraq that are on Nauru—as to whether or not it is appropriate for them to voluntarily return at the moment as it is considered that it is okay?

**Mr Hughes**—Generally speaking, on the question of voluntary returns to Iraq, they continue to take place in small numbers from around the world. The UNHCR has been involved in some thousands of voluntary returns to Iraq from neighbouring countries in the Middle East. Smaller numbers of people are returning to Iraq voluntarily from Europe and, of course, we have had some from Australia.

**Mr Okely**—There has been a small but steady flow of people back to Iraq from Nauru. These are people who have volunteered to go back, and IOM has been able to arrange their return. IOM continues to encourage people to return to Iraq and will make whatever arrangements it can to get them back with expedition. My understanding is that there has not been a flood of people wanting to go back to Iraq in recent months.

**Senator BARTLETT**—Did you say IOM encourages people to return?

**Mr Okely**—IOM would indicate that these people have gone through the refugee process and they would counsel them that one option they have is voluntary return and that IOM can arrange that if they so wish. They do not proselytise about it; they simply offer it as an alternative.

**Senator BARTLETT**—Has the UNHCR expressed any view to DIMIA or the Australian government about the possibility of providing some sort of temporary haven for people on Nauru, even those who do not meet the criteria for refugees, given the uncertainty of circumstances in both Afghanistan and Iraq?

**Mr Hughes**—The UNHCR has asked that we consider giving complementary protection to the Iraqis in Nauru.

**Senator BARTLETT**—Are you considering that?

**Mr Hughes**—It is ultimately a matter for decision by government as to whether anything of that nature takes place. For the time being, I think Iraqis there are in the same position as those in Australia and other parts of the world, where they have a choice on voluntary return. But there is no new information suggesting that the people would be refugees.

**Senator BARTLETT**—I suppose the main distinction between their situation and that of those in Australia is that they are in detention, in effect. That is not necessarily an identical scenario.

**Mr Hughes**—I think we have come back to that issue of whether people are in detention or not, as mentioned by Mr Farmer.

**Senator BARTLETT**—So, in terms of your statement about UNHCR having asked for consideration to be given to that, is it fair for me to take from that that it is at least under consideration as opposed to having been given consideration and given a negative response?

**Mr Hughes**—You could take that, Senator.

**Senator BARTLETT**—This might be more for DFAT; I am not sure. It was mentioned before that IOM and other officials were at the Menen Hotel in Nauru—that it was the main base for pretty much everybody. A few weeks ago whilst I was there, one of the hotel workers was killed falling off a fire escape staircase that had what was obviously a very unsafe handrail. Is anyone aware of that? Have any issues being raised about safety, given that pretty much anybody who works at the camp and is involved with the camp hangs out at the Menen Hotel?

**Mr McMahan**—That has been taken up by both IOM and the Australian government with the hotel management, and they are responding by getting quotations. We think that the remediation will take place relatively quickly.

**Senator BARTLETT**—In relation to that specific incident?

**Mr McMahan**—Yes.

**Senator BARTLETT**—Are there no broader safety issues that have been raised?

**Mr McMahan**—No, there have been no broader safety issues that I know of. At one stage there was concern about the quality of the water in the hotel; IOM used some of its own expertise to examine the water and some remediation took place in respect of that. I do not recall any other safety issues for expatriate staff there.

**Senator BARTLETT**—When you say that it was raised by the Australian government, is that through DIMIA or through DFAT?

**Mr McMahan**—Through DFAT.

**Senator BARTLETT**—I will follow that up a bit more with them. You will be pleased to know, or perhaps displeased to know, that the IOM doctors at the camp treated me very well

for my bit of food poisoning or water poisoning or whatever I got while I was there. I am sure you are pleased about that.

**Mr Okely**—I have no doubt we will get the bill in due course!

**Senator SHERRY**—We are picking up the cost of that as well, are we?

**Senator BARTLETT**—There is the issue of the semantics of detention, which I know has been raised a few times, and there was a statement that people were on a particular type of visa. Are you able to give me a slightly more precise definition of the type of visa held by people on Nauru, and whether there is a copy or a detail of it that we can get hold of?

**Mr McMahan**—We would have to take that on notice. I think we may have seen the visa before. Certainly, from time to time, the head of the immigration service there has signed off conditions around the visa as a legal instrument, allowing them to come in and out of the centre under certain conditions et cetera.

**Senator BARTLETT**—Are they all on the same visa?

**Mr McMahan**—Yes. As you know, the court case determined that the administrative arrangements there were legal.

**Senator BARTLETT**—If there is a bit more information, a copy of the visa or something like that, that you are able to get, that would be nice. In terms of that broader issue, I am sure you know that there is some controversy about people being able to actually enter Nauru, which I am sure you will emphasise as a matter for the Nauru government. Has the department or the Australian government ever expressed to the Nauru government any view or preference about the desirability or otherwise of certain people being able to enter Nauru?

**Mr McMahan**—No, not to my knowledge.

**Senator BARTLETT**—Minister, do you have any awareness of that?

**Senator Vanstone**—I am sorry; I was momentarily distracted.

**Senator BARTLETT**—We were on the issue of whether the Australian government has ever expressed a view to the Nauru government about the desirability or otherwise of certain people being able to enter Nauru or whether you have taken a hands-off approach to that.

**Senator Vanstone**—I have always had a hands-off approach. It is a matter for the Nauru government. I have had no nudges, winks, whispers or whatever you like to describe it as to indicate that anything other than that happens.

**Senator BARTLETT**—It is obviously only people of the absolute highest character who are allowed in there—like me. With regard to the issue I raised earlier today—the question on notice you gave me a response to, No. 69—we started to have a discussion about definitions of mental illness, and you were saying no person is currently diagnosed with severe or chronic mental illness. Obviously there are privacy issues in terms of giving too much detail on breakdown, but it was certainly made reasonably clear to me by health workers at Nauru that a lot of people there were being treated for mental health issues. Most of the work of the psychologists and the health workers was to do with mental health issues, and a reasonable degree of antidepressant medication and the like was being prescribed. Is there any detail you can give us about prescription rates for antidepressants or those sorts of things?

**Mr Okely**—I do not have the prescription rates for antidepressants but, at any one time, there may be people on antidepressants. As you would know from your visit, there is a very competent psychologist and psychiatrist and three mental health nurses there. Mental health issues are a prime concern to IOM, and they deal with them very seriously, as you would acknowledge. I do not have the rates of antidepressant use. What they have said is that there is no-one there with chronic mental illness, but there are obviously instances where people do require medication.

**Senator BARTLETT**—Are you able, on notice—as with my question about onshore people on antidepressants or sleeping medication—to get those details by gender and adult and non-adult for Nauru as well?

**Mr Okely**—Yes, we can get that.

**Mr McMahon**—We have had some concerns expressed to us by the medical staff of IOM there about break-ups. The problem is that there is only one centre. Unless you amalgamate it with something else, in some cases you can identify the people. But we will try to provide some high-level information.

**Senator BARTLETT**—If it is an identification problem, that is understood. I have one more Afghan related question. I presume that the new information we are getting with UNHCR et cetera would flow through to any assessment that might occur in Australia for TPV holders.

**Mr Hughes**—Yes, it will.

**Senator BARTLETT**—I have one other Nauru related question. I think there are four unaccompanied minors amongst the group that is still there.

**Mr Hughes**—That is correct.

**Senator BARTLETT**—In relation to the definition of unaccompanied minors, there is one person I am thinking of who is a boy under the age of 18 but he has an elder sister there who is over 18. Would he be counted as an unaccompanied minor?

**Mr McMahon**—He would be included as an unaccompanied minor. I think the definition they use is the absence of parents. Every one of those unaccompanied minors—and there were more there before; it is down to four, and it will be down to three shortly—are with some form of family group.

**Mr Okely**—You mentioned one boy with a sister. There are four unaccompanied minors. They are all males and they are all between 14 and 17. They are all Afghan. There has been no mention of an unaccompanied female child.

**Senator BARTLETT**—No, I think the sister is over 18. Finally, flowing out of another answer you provided—to question on notice no. 4—which was to do with offshore asylum seeker management in Indonesia, you gave me some figures which were quite useful. I just wanted to draw out a little bit more from those figures. You said that of a total of 3,926 people who had been handled by IOM in Indonesia up to 30 November last year, 795 had been refugees who had then been resettled to third countries and 241 had been found to be refugees and were awaiting resettlement. Of the 795, I was wondering how many had come to

Australia as opposed to those who had gone elsewhere, and what nationality they were. You may need to take that on notice.

**Mr Hughes**—I can tell you that the answer is 125. The breakdown of countries of origin we would have to take on notice.

**Senator BARTLETT**—Would they all be on five-year TPVs?

**Mr Hughes**—I think they are. If there is anything different, we will correct that for you.

**Senator BARTLETT**—With the 241 that are awaiting resettlement, could you give me an indication of how long they have been waiting? Again, you might need to take that on notice.

**Mr Hughes**—We will take that on notice.

**CHAIR**—That concludes questions in 1.5. Senator Ludwig, do you wish to pursue a matter that was raised earlier, before we move to outcome 2?

**Senator LUDWIG**—Yes, I do. I thought I would come back to you, Mr McMahon, rather than interrupt the questions. I just wanted to go back to the answers that you gave me in response to the earlier questions. What were the dates when contact from the US Embassy was made? There was November 2001—

**Mr McMahon**—They did not relate to the contact. This has nothing to do with the US Embassy. These were just the audit trails of our own system of when there was an access to our movement alert list by our people—and in fact by Los Angeles. Before issuing that visa—a visa application being imminent or having been lodged—the first thing that they would want to have checked would be the person's record and whether they had gone on time et cetera the first time, because they would have known that this person had been in before. They were the first two checks. That was in November 2001 and January 2003.

**Senator LUDWIG**—Do you have the specific days?

**Mr McMahon**—They were 22 November and 11 January, I think.

**Senator LUDWIG**—And they were contacts from where?

**Mr McMahon**—From our people—in other words, immigration processing officers.

**Senator LUDWIG**—DIMIA processing officers.

**Mr McMahon**—DIMIA processing officers in Los Angeles.

**Mr Killesteyn**—There is nothing untoward there. When a person makes a visa application our people, in considering that application, would do a pretty routine check to determine whether the person has in the past come to Australia and, if they had, whether they had gone. That simply goes to the bona fides of a visit visa—that is, they come and they go.

**Senator LUDWIG**—Yes, I think that is what Mr McMahon was explaining. The next date was 29 January 2004. What was that one?

**Mr McMahon**—That one was in response to the ad. I think there were a number of hits on that day by various agencies.

**Senator LUDWIG**—Which agencies were they?

**Mr McMahan**—I do not have that here but I was told that there were a number of hits. One of them was immigration and I would expect that the other one would have been ASIO.

**Senator LUDWIG**—But you can confirm that by checking.

**Mr McMahan**—I could.

**Senator LUDWIG**—And you will get back to the committee with the agencies?

**Mr McMahan**—I will.

**Senator LUDWIG**—Thank you. Prior to 29 January 2004, where did the issue of the AFP and the US Embassy come from?

**Mr McMahan**—Firstly, in respect of the AFP, there is no record of them ever having accessed our system, nor is there a record of any other agency having accessed the system before 29 January. The information in respect of the US Embassy came from ASIO and I would not want to make any comment on it. Basically, I am now just relaying second-hand information, and I think it is best if it came from them.

**Senator LUDWIG**—That is the part that I did not understand the last time. I thought that if we could just lead into it I could understand what you are saying.

**Mr McMahan**—Sorry, what part?

**Senator LUDWIG**—With respect to the part about the US Embassy, you say that I should now talk to ASIO?

**Mr McMahan**—We had a series of discussions after 29 January as we were trying to collect information on this person—movement records, passenger information et cetera. That was information that came out during those discussions.

**Senator LUDWIG**—They were post the discussions—

**Mr McMahan**—They were post 29 January.

**Senator LUDWIG**—What impression did that leave you with—the impression that ASIO was checking or that they knew before 29 January or were making inquiries about Mr Mohamed prior to that date?

**Mr McMahan**—All I can say is that our contact between the two agencies commenced on 29 January.

**Senator LUDWIG**—That is ASIO and the department of immigration.

**Mr McMahan**—Yes.

**Senator LUDWIG**—What can you say about that, or can't you say anything further about that?

**Mr McMahan**—No. I think it is really up to ASIO now to debrief any further on that.

**Senator LUDWIG**—Are there any written records of the contacts that were made prior to the 29th?

**Mr McMahan**—The only records would be from our audit trails and from our visa processing application system, and that is as I have described to you.

**Senator LUDWIG**—So you cannot tell me anything about the US Embassy inquiries?

**Mr McMahan**—No, that really does need to be addressed by ASIO.

**Senator LUDWIG**—Why is that?

**Mr McMahan**—Essentially, we would simply be passing on second-hand information, and it is quite clear that there is some capacity for misinformation there. I think that they should be telling you the story directly to the extent that they are comfortable with it.

**Senator LUDWIG**—What part of the information that you gave us this morning is not correct, as far as you are aware?

**Mr McMahan**—The reference to the AFP.

**Senator LUDWIG**—Did they contact you?

**Mr McMahan**—No. In fact, I was remembering a chronology in which we did believe for a period of time that the AFP had been involved in the information we had been given. I was reminded of a subsequent clarification that the AFP was not involved. I had been given information that, when discussed with the AFP, the AFP had looked and indicated that they did not have a record of that.

**Senator LUDWIG**—All right. This morning you confirmed that the US Embassy had made inquiries. Are you able to confirm that or was that not right?

**Mr McMahan**—I would prefer to make no further comment on that. I think it is up to ASIO to debrief you about its direct contacts.

**Senator LUDWIG**—Has ASIO contacted you?

**Mr McMahan**—No, we contacted ASIO.

**Senator LUDWIG**—When did ASIO contact you—today?

**Mr McMahan**—No, we contacted ASIO today.

**Senator LUDWIG**—For what purpose?

**Mr McMahan**—To discuss the information that we had in respect of that contact. It became clear to me that the story was a little bit more complex than we were given to understand. If you were going to ask, ‘Were we asked not to say anything more on it?’ the answer is, ‘No, we were not.’

**Senator LUDWIG**—I haven’t got there yet, but I was probably going to get there.

**Mr McMahan**—I think you were heading there pretty rapidly.

**Senator LUDWIG**—I may have been; I am not sure yet. If ASIO have not asked you not to comment further, why can’t you now comment any further?

**Mr Farmer**—There is the point that there are provisions for ASIO to make facts or comments known to the committee—and there are certainly formal provisions, as I understand it, for ASIO to brief the opposition, if that is an issue. Personally I think that that is a provision that should be used rather than pursuing that line of questioning through DIMIA. We are not a party to everything that goes on in this matter, and trying to piece together a

whole picture from talking to us, who do not know the whole picture, is not really the most helpful way forward for the committee.

**Senator LUDWIG**—I can pursue inquiries with ASIO, as you are aware, Mr Farmer, but I did not want to have this discourse with you. The fact is that I can ask your department to tell me about what its involvement is.

**Mr Farmer**—Of course.

**Senator LUDWIG**—Who they have talked to and what they talked about—as far as they are able to discuss it and unless it is in confidence or in breach of some law that the minister would be aware of that I may not. Mr McMahon was saying, ‘Yes, we had a certain amount of information this morning. Some of it seems to have been incorrect, so we have corrected it.’ Now I am asking fresh questions about what it is that has gone on. I think it is entirely appropriate to ask about DIMIA’s involvement in this particular issue. I am sure that Mr McMahon can stop at any point where he knows that it is either second-hand or third-hand information or matters that he feels are privileged and should not be disclosed on the public record.

**Mr Farmer**—Yes, but, in addition to those sorts of issues, there is the other sort of issue where, if we are being asked comment on things which are—

**Senator LUDWIG**—I am not asking you to comment on it; I am asking for information in answer to a question.

**Mr Farmer**—Yes, but if we are doing that in a context where conclusions are being drawn on the basis of bits of information from us, then run by us again for checking, we are really—

**Senator LUDWIG**—That is what estimates is all about, I would have thought. I am sure, Mr Farmer, you have sent me from one department to the other because you have said it is not a matter that you deal with, and I have to go to another department to find out what they have. If I am not able to do that, how will I ever piece together the story?

**Mr Farmer**—As always, we will try to be helpful. I just would not want you drawing conclusions about a whole picture on the basis of questions to us, our not being in possession of the whole picture. It is certainly possible for us, quite unwittingly and unknowingly, to mislead you if you are assuming that we are party to the whole picture. We may be; we may not be.

**Senator LUDWIG**—It is getting more complex. I am just asking simple questions and I hope Mr McMahon can provide the answers. Can I confirm this: did the US Embassy contact your agency prior to 30 January?

**Mr McMahon**—We have never had any contact with the US Embassy.

**Senator LUDWIG**—All right. This morning you said:

As I understand it, it was an approach direct to the department.

Do you retract that statement then?

**Mr McMahon**—I am sorry, I was just thinking about my last answer. We have no record of a contact with the US Embassy.

**Senator LUDWIG**—Yes, that is what you said.

**Mr McMahan**—That is slightly less definitive than saying that we had no contact. I just want to be plain.

**Senator LUDWIG**—I was going to say I am sure DIMIA has probably had contact with the US Embassy, but I think you mean in respect of this matter.

**Mr McMahan**—On this matter, yes.

**Senator LUDWIG**—And you said this morning: ‘As I understand it, it was an approach direct to the department.’

**Mr McMahan**—What I said this morning was that there was information that the US Embassy had made an inquiry and I thought it may have been through the AFP, because that was the information I was given at the time. However, that is incorrect. So it leaves open the whole question about who the US Embassy may have approached.

**Senator LUDWIG**—Perhaps you would want to have a look at the transcript. I have got it here. It says:

Mr McMahan—As I understand it, it was an approach direct to the department. It may actually have been an approach to AFP, who then accessed the information directly. But essentially at that stage it was simply a request. As a matter of fact, it has never changed. As far as I know, he has never been charged with any security related matters. He has only ever been charged with immigration matters. At that stage, I think it was about his immigration status. It was certainly nothing untoward. It was just a routine inquiry. I recall that at the time we could not confirm that it was the same person, because subsequent to that—the birth date is different. I think the advice given to the US Embassy was that there was no match ...

I will finish at that point. It seems to me that you were quite definitive this morning about what it is that you could recall and the detail that you provided. Do you now retract that statement?

**Mr McMahan**—I do not retract anything I said there. When I said ‘I recall at the time’ I was recalling the conversation that took place at the time. There was certainly no recall at the time that there was contact with the US Embassy.

**CHAIR**—Senator Ludwig, you have had the opportunity to refresh your memory in relation to the transcript. I do not think it is available currently to Mr McMahan—not that I think that that is an issue, but in terms of the situation I think it is appropriate to point that out.

**Senator LUDWIG**—I was happy for the secretariat to provide a copy. I do not have any difficulty with that.

**Mr McMahan**—I do have a copy here.

**CHAIR**—I am sorry, I was not aware of that.

**Mr McMahan**—I am sorry, Madam Chair, but I was given a copy of it. I do not retract anything I said this morning. The fact of the matter is that this morning we were dealing with second-hand information. It was about the information that I had been provided that there had been contact by the US Embassy. I also then commented on what I thought the nature of that contact was. The bottom line of it is that I have never indicated or sought to imply that we had any direct contact with the US Embassy.

**Senator LUDWIG**—I see. So what you say is: ‘As I understand it, it was an approach direct to the department.’ So what you then say is that, subsequent to this morning, your belief is now no longer that belief.

**Mr McMahan**—It depends on which department. As I understood it—

**Senator LUDWIG**—We are only talking about one then, I think.

**Senator Vanstone**—Senator Ludwig, you did ask a question, and you have a couple of times interrupted when the officer is trying to answer.

**Senator LUDWIG**—I am sorry, that is quite correct.

**Senator Vanstone**—If you want to do that you would have to do a law degree and rudely practise in the courts, as they do, but here we tried to be a bit more friendly.

**Senator LUDWIG**—I am not doing it on purpose, nor rudely.

**Senator Vanstone**—I understand you are just keen to get to the point. I do it all the time. I try not to.

**Mr McMahan**—My understanding in terms of the way I tried to put it this morning was that we received information that there had been an inquiry by the US Embassy. We did not know the nature of that inquiry. Certainly this morning I had indicated that I thought it was possibly through AFP. As the events have evolved, then it was not through AFP. So I could not actually conclude, either from this morning or now, that the department had ever been approached.

The fact is that we do not have a hit on our system around that time. It is possible that we were contacted by somebody and asked whether or not that person was on our system and that, when we put the name and the date of birth in, that person did not come up but there was someone similar who did. So it is entirely consistent with the fact that some information could have been provided saying, ‘We do not have that person but there is a person of a similar name.’ But because AFP does not have a record and we do not have an audit strike against that particular name, it is really conjecture as to what happened from then on.

The reason I am pulling back from this to some degree, in terms of whether I should talk about it or whether ASIO should talk about it, is that ASIO had a set of discussions which involved, potentially, a number of US agencies, and they are the ones who actually provided the information that the US Embassy may have made an inquiry. So it is really not appropriate for me. I was trying to deal with this as an immigration matter. My primary concerns are visa issues and ensuring that a person who may be of bad character is placed on our systems. So that really is the end of the interest there.

**Senator LUDWIG**—Were there any other agencies besides ASIO that you have had contact with since we spoke this morning?

**Mr McMahan**—Not on Omar Abdi Mohamed, no.

**Senator LUDWIG**—So was it conjecture when, after I said:

Which US authorities asked for that?

you said:

It was the US Embassy.

I then said:

Did they cable you?

And then we went on to that statement.

**Mr McMahan**—I believe I said that they certainly didn't. Well, you are right. I do rescind what I said this morning. Looking at this, I said it was 'an approach direct to the department'. I do not know what I had in mind when I said that. Certainly I went on immediately—I would like to actually listen to the tape on this—and I said that it may actually have been an approach to the AFP. That certainly was my understanding this morning.

**Senator LUDWIG**—That is not what I heard. We could have both been at cross-purposes.

**Mr McMahan**—Anyway, let me correct it factually, if that was the construction. The fact of the matter is that I had believed this morning that it was an approach to the AFP and that it may or may not have resulted in some sort of contact with the department. Basically we do not have a record of it.

**Senator LUDWIG**—So you cannot categorically rule out that the US Embassy did contact your department prior to 30 January—that is, DIMIA?

**Mr McMahan**—No, I could not. Indeed if it did have information about their movements then there may well have been a request in respect of that person.

**Senator LUDWIG**—There are some other issues. The proof *Hansard* also provides details of some other issues that you were going to take on notice. You might want to reflect on the transcript and have a listen to the tape if you so desire. If there are any other areas that you wanted to correct, I would be only too happy for you to correct those on the record as well. Have you caused a search, since this morning, on the DIMIA records database? I am not sure what it is called—

**Mr McMahan**—The MAL database. Yes, we did a search this morning.

**Senator LUDWIG**—For any contact in respect of Mr Omar Mohamed?

**Mr McMahan**—Yes. Basically we looked up all previous logged inquiries in respect of that person.

**Senator LUDWIG**—The audit shows 29 January access to the DIMIA database and the other two you mentioned.

**Mr McMahan**—The two previous LA processing requests. That is correct.

**Senator LUDWIG**—Can you say which departments then contacted you on the 29th? Do you call them hits, do you?

**Mr McMahan**—We would have a record of that—of what other agencies also accessed the database on that day. I do not have the information here.

**Senator LUDWIG**—You can take that on notice?

**Mr McMahan**—Yes, we can take that on notice.

**Senator LUDWIG**—Thank you. The hit will tell us the time, because they will all be on the one day—the 29th—won't they? I would just like to be able to differentiate how they have been shown—perhaps a copy of the log, if that is possible.

**Mr McMahon**—Okay.

[4.36 p.m.]

**CHAIR**—I thank the officers who assisted the committee with outcome 1 and I look forward to responses to those questions on notice. Let us move to outcome 2, A society which values Australian citizenship, appreciates cultural diversity and enables migrants to participate equitably. We will start with output 2.1, Settlement services.

**Senator SHERRY**—I want to go to the settlement services review. Has the high-level task force reported to government yet? Have they received copies?

**Mr Vardos**—Yes, the task force has completed its contemplative process. A report went to government towards the end of last year. The government endorsed the recommendations of the report in principle and we are now in the next and final phase of government consideration of the principal recommendations.

**Senator SHERRY**—Has that report been made public?

**Mr Vardos**—No, it is still being considered by government.

**Senator SHERRY**—Is it intended to make it public?

**Mr Vardos**—I do not know. It is the minister's call at some point after the government has completed its consideration of the report.

**Senator SHERRY**—Do you recall approximately when it went to the government?

**Ms Bryant**—The report was provided to government in late November or early December last year, but I will check that.

**Senator SHERRY**—In relation to the settlement services review, what is the current state of play in relation to the future directions of the government access and equity strategy?

**Dr Nguyen-Hoan**—The government is still implementing the access and equity strategy across the Commonwealth departments and agencies. The Department of Immigration and Multicultural and Indigenous Affairs is still taking a leadership role in helping departments and agencies to implement the access and equity principles. Of course, we will take into account the implications arising from the settlement services review, and that is still being worked out at the moment.

**Senator SHERRY**—With regard to the issue of the department no longer providing assistance to some established migrant communities, has there been any further discussion on this matter?

**Mr Vardos**—It is not a matter of the government not providing; it is simply a question of priorities, and the highest priority is for new and emerging communities. Within the broad set of priorities that are set for the amount of money we have, the established communities have to take their place in the queue.

**Senator SHERRY**—They could be last and zero.

**Mr Vardos**—That is a possibility, but the priority is for new and emerging communities. But the established communities have not been excluded.

**Ms Bryant**—The proposal that was in the settlement services review in relation to the establishment of a separate grants program for established communities is still under consideration by the government and, in the interim, there have been no changes to eligibility criteria for the 2004 CSSS funding round. Any established community applying for funding in that round will have their application considered on its merits, as they have been in previous years.

**Senator SHERRY**—Have there been any further discussions on the funding for MRCs and CSSSs being combined into a single program?

**Ms Bryant**—The government has endorsed that as a broad policy direction. The department has been preparing a series of discussion papers to consult with the community about the further implementation of a number of issues arising from the review, including the creation of a combined new grants program. We envisage that a discussion paper will be issued as a basis for community consultation in late March or early April.

**Senator SHERRY**—But hasn't the settlement services review already consulted with communities?

**Ms Bryant**—The review proposed the creation of the combined grants program. The government has accepted that as the direction it intends to move in and the community consultation paper will canvass a number of issues in relation to how we go about implementing that proposal. They will go to issues like eligibility for the new combined grants program, the assessment criteria that will apply in respect of the combined grants program and matters of that sort. We will then seek input from the community about each of those issues and they will then have the opportunity to comment and shape the—

**Senator SHERRY**—I understand that but the settlement review that has been concluded has considered the issue and the government has accepted that they will be combined. Why are we having another subreview of the original review recommendations that have been accepted by government?

**Senator Vanstone**—With respect, I think the officer answered that.

**Senator SHERRY**—No, she did not.

**Senator Vanstone**—I will tell you what I thought she said and, if I got it wrong, she can tell me I am wrong. *Sotto voce*, but still! I think what the officer said was that yes, there was the review. It recommended a particular course of action. The government is producing a discussion paper which will canvass how to implement that recommendation. You can say, 'Let's go to Melbourne,' as a recommendation and then have quite a discussion about the means by which you get there. That is what I think the officer told you and then you asked the same question again.

**Senator SHERRY**—It seems to me, Minister, that it is a review following another review into the same issue.

**Senator Vanstone**—It is the same issue but it is not the same aspect. The first review settled a direction generally; this consultation paper is to go to the detail about how to do it. Isn't that what you said?

**Ms Bryant**—That is exactly what I said.

**Senator SHERRY**—I do not see why these issues could not have been considered in one review rather than two.

**Mr Vardos**—The second stage of this process gets down to the micro level. The review that we conducted last year established the principle and the direction, as the minister and Ms Bryant said. The next phase is to go through the fine detail of the how, and we clearly want to obtain the views of those who will be affected in putting the how together.

**Senator Vanstone**—Let us take the analogy a bit further. For example, we might decide, in a general review of what we want to do, that we will go to Melbourne from here—I suppose you can go to Melbourne by train from here. So we might say, 'Let's go to Melbourne by train,' assuming that we could. You might say that the detail is settled but then we might have a discussion about whether we get a sleeper or we sit up or whether we hire a whole carriage. These details are things that people want to have some say on, to be consulted on.

**Senator SHERRY**—Do we have an approximate date for the release of this new paper?

**Ms Bryant**—As I indicated earlier, it is late March or early April.

**Senator SHERRY**—And the response time for that implementation paper?

**Ms Bryant**—What we envisage as a process is that the paper would be released around a fortnight in advance of community consultations, which would be conducted nationally. It would take us around four weeks to do a consultation program in every capital city and some key regional centres and then there would be probably a further fortnight or thereabouts for people to put in written comments. So, all up, they would have something of the order of four to six weeks to make written submissions and in that time there would be a national consultation process.

**Senator SHERRY**—Do we have a budget estimate of the cost of this process?

**Ms Bryant**—The cost of consulting in this way?

**Senator SHERRY**—Yes, that of the detailed implementation review and the consultations et cetera.

**Mr Vardos**—There is not a specific budget allocation as such. The costs that will be incurred will be air fares and travelling allowance for the officers leaving from Canberra, and I am sure we will be providing refreshments for the people that come to the consultations at each of our state offices.

**Senator SHERRY**—And there is staff time, presumably.

**Mr Vardos**—The salary time is paid regardless, but this is part of what we do. The additional costs will be the air fares and travelling allowance and tea and scones.

**Ms Bryant**—They will be fully covered within the department's existing expense allocations.

**Senator SHERRY**—I understand that a discussion paper has just been released on the issue of humanitarian settlement services. Is that so?

**Ms Bryant**—That is correct.

**Senator SHERRY**—When was that released?

**Ms Bryant**—Last Wednesday. I have some copies here if it would assist the committee.

**Senator SHERRY**—Yes, as I do not have a copy.

**Mr Vardos**—We have multiple copies for tabling, Chair.

**CHAIR**—Thank you.

**Mr Vardos**—I can also table the schedule of consultation meetings that we are conducting.

**Senator SHERRY**—On this review?

**Mr Vardos**—Yes, on this review—the IHSS review.

**CHAIR**—Yes, please.

**Senator SHERRY**—There seem to be a few reviews going on here.

**Mr Vardos**—That is the nature of the business we are in. We consult our constituents and our stakeholders. They would not want anything less.

**Senator SHERRY**—For the remainder of this financial year and for a full year, do you have details on the costs for expanding the household goods provided under the household formation support element?

**Ms Bryant**—I think we gave you an indication of that last time.

**Senator SHERRY**—I have asked for those for the remainder of this financial year.

**Ms Bryant**—I think we advised you last time that we estimated the cost over the financial year to be between \$4 million and \$7 million, depending on the composition of households. We pay it by the number of households. If we have a high number of small households of two or three people, then the cost will be higher than if we have a smaller number of quite large households.

**Senator SHERRY**—But that \$4 million to \$7 million was for this full financial year, wasn't it?

**Ms Bryant**—That is correct. I do not have a breakdown with me of what we anticipate it to be for February to June.

**Senator SHERRY**—Do you have an actual figure for the financial year to date?

**Ms Bryant**—No, I do not have that with me.

**Senator SHERRY**—Would you take that on notice for me, please?

**Ms Bryant**—Certainly.

**Senator SHERRY**—Then there are the details and costs of ensuring that new arrivals can access medical care in the first two weeks of arrival.

**Ms Bryant**—Again, the enhancements overall were estimated to cost between \$4 million and \$7 million. I will have to take on notice any breakdown of that figure and any figure for the year to date.

**Senator SHERRY**—Okay. I have the same questions in respect of providing new arrivals with advice, training and information on issues such as care of rental properties and property management—

**Ms Bryant**—Yes, I will take that on notice as well.

**Senator SHERRY**—and providing new arrivals with a phone card.

**Ms Bryant**—Similarly.

**Senator SHERRY**—With regard to other IHSS recommendations in the review, what is the status of developing a model to strengthen case management and coordination across IHSS service types?

**Ms Bryant**—We are keen to pursue enhancements to IHSS that would achieve improved coordination. That is an issue that is specifically canvassed in the discussion paper I have tabled. We have sought community views on how best that might be done. An avenue that the paper raises as a suggestion is that it could be facilitated perhaps by encouraging a consortia of providers rather than multiple single contracts with providers. But, again, it is an issue on which we have sought community input.

**Senator SHERRY**—What about the increase in the financial assistance for arrivals moving into longer term rental accommodation and providing utility bonds? Is that covered in the latest discussion paper?

**Ms Bryant**—The broad question of any gaps in current service provision and how to enhance the arrangements is canvassed in the discussion paper. Improving services for those moving into long-term accommodation was picked up in part by the tenancy training and enhancements in that area to facilitate people's ability to function long term in the private rental market.

**Senator SHERRY**—Likewise, what about the revised arrangements for volunteer involvement in humanitarian settlement?

**Ms Bryant**—Again that is explicitly canvassed in the discussion paper as a matter that we want the community's views on.

**Senator SHERRY**—What about the support to arrivals and proposed sponsors under the special humanitarian program?

**Ms Bryant**—That is also raised in the discussion paper.

**Senator SHERRY**—The additional estimates statement on page 50 indicates that expected client numbers for IHSS in 2003-04 have been significantly increased from 7,885 to 11,500. That is about a 45 per cent increase, but there does not appear to be a corresponding increase in the IHSS budget.

**Ms Bryant**—The 7,885 figure was a figure based on 2001-02 performance. The number of people assisted in 2002-03 was 10,041. We consider the 11,500 figure to be much more realistic in terms of 2003-04, given the performance last year. The funding is included in the

department's overall funding for 2003-04. As I have previously advised the committee, it is estimated at around \$30 million depending on the case load mix.

**Senator SHERRY**—I am sorry; what was that figure you just gave?

**Ms Bryant**—Around \$30 million depending on the caseload mix.

**Senator SHERRY**—Why do you think there has been such a significant increase?

**Ms Bryant**—In 2001-02 the numbers that were eligible for assistance were affected at the time by the number of unauthorised boat arrivals. Those people were not receiving IHSS services, hence the number was much lower. Now that the number of unauthorised boat arrivals has fallen and the balance has swung back to offshore approvals under the humanitarian program, the number receiving services is much higher. As you will note from that 11,500 figure, it is really quite close to the size of the overall humanitarian program at 12,000, but it also takes account of any rollover from previous years.

**Senator SHERRY**—It would seem to me that there would need to be some increase in additional estimate statements. I could not find anything in the papers. Can you point me to an explanation of where the figures would be?

**Ms Bryant**—I do not actually have the portfolio estimate statement from the last budget with me but I think you will find in that document—from memory it was on page 108—a reference to an allocation to the department. I am just being provided with it.

**Senator SHERRY**—That is not in the additional estimates documentation?

**Ms Bryant**—No, it is in the original portfolio budget statement.

**Senator SHERRY**—Hang on, I will just see if we can get a copy of the original budget paper of the last estimates rounds from the secretariat. We could come back to that.

**Ms Bryant**—For the record, I can explain that it was at page 109 rather than 108. There is a table in there that shows an allocation to the department of, I think, \$97.8 million to meet the operational requirements of DIMIA. IHSS services are funded from departmental expenses. They are not an administered item. That aggregate sum there included additional funding for IHSS services.

**Senator SHERRY**—That allocation of \$97.8 million is for 2003-04. What is the figure for 2004-05? Is there one there?

**Ms Bryant**—That is subject to further consideration by the government. There is not an allocation in the portfolio budget statement for 2004-05.

**Senator SHERRY**—Do you have a figure for the allocation for 2002-03?

**Ms Bryant**—In an answer in *Hansard* on 11 February 2004, we advised that funding for IHSS in 2002-03 was \$26.2 million and in 2001-02 was \$20.2 million.

**Senator SHERRY**—Does the reference to the future delivery of IHSS services in this discussion paper imply that the request for tender may seek bids for a program that is structured differently from the current program?

**Ms Bryant**—The program will continue to be tendered and the program may well be structured slightly differently depending on the outcome of the community consultation

process. We anticipate that it will continue to provide the core services of information, orientation and general referral; assistance and advice; basic household formation support; accommodation support; and early health assessment and information. The way in which those core services are structured or grouped together, and whether they remain as single contracts, combined contracts or in the form of a consortium or whatever, is open to community input.

**Senator SHERRY**—But, in terms of the next tender process, it may change.

**Ms Bryant**—It may change. As a process we have issued a discussion paper to give the community the opportunity to provide input, and that includes a wide range of stakeholders such as state and local government, volunteer organisations as well as our existing funded providers et cetera. Those people, including those who would not be prospective tenderers, will have the opportunity to comment and provide input through the discussion paper process. We then envisage issuing a draft statement of requirements post the budget, again giving the opportunity, in this case, more narrowly to prospective tenderers to comment on the draft statement of requirements, and then a final request for tender will be issued late in 2004. So it will be a three-stage process that leads to the specification of the way in which the tender will be constructed.

**Senator SHERRY**—Chair, I would now like to go to output 2.1.3, Support for community services.

**CHAIR**—Okay.

[5.01 p.m.]

**Senator SHERRY**—DIMIA introduced a computerised settlement client information system for use by all MRCs from 1 July 1999. Are all centres using this system now?

**Ms Bryant**—No, I do not believe so. Around 10 per cent of MRCs have never used it. So 10 per cent of 30 would be three or four organisations that have never adopted it.

**Senator SHERRY**—We are now in 2004; it is a fair time since its introduction.

**Ms Bryant**—The original client information system was developed to provide funded organisations with an electronic system both for managing their individual client records and enabling them to extract and forward statistical reporting files to DIMIA. Because it had that dual purpose, a number of the organisations have sought to modify the package to, as they said, enhance its operation in their own IT environment, and that has meant that the package has had several maintenance problems, given the diversity of environments it operates in and has—

**Senator SHERRY**—Just before you go on, you say ‘several maintenance problems’.

**Ms Bryant**—Yes, it has. Historically, because organisations modify it and because it has that dual purpose, it has been difficult to ensure that it operates in a way that provides consistent and 100 per cent reliable data.

**Senator SHERRY**—When you say maintenance problems, do you mean maintenance problems at the MRC or does it cause consequential maintenance problems across the entire system?

**Ms Bryant**—It causes problems, I believe, at the MRC user end but also on receipt of reporting information in DIMIA. Historically, over past years we have sought to invest in rectifying the technical problems with the system.

**Senator SHERRY**—I am sorry; you are jumping ahead but I want to get to that. Were any guidelines or instructions issued to MRCs about this? Was it envisaged that these sorts of problems would emerge if MRCs were doing it in a modified form?

**Ms Bryant**—I am not familiar with what guidelines might exist historically. The system was originally developed in consultation with MRCs. Even at the time of its development they had diverse views about precisely how they each wanted it constructed. We have sought to maintain a system that meets their diverse operational requirements and the reporting requirements that DIMIA has. That has not been entirely successful and it has not resulted in a universally reliable and accepted system.

**Senator SHERRY**—Why hasn't it been entirely successful? It seems to me that there is a bit of a rearguard action here to avoid using the system.

**Ms Bryant**—Because the system has those two purposes, it is in effect serving two masters and has not been 100 per cent successful at either of its two functions. The department is moving to a new IT environment—a Windows XP environment—from 1 July this year. The current information system cannot operate in the new environment, so we are developing a new system to replace the existing client information system.

**Senator SHERRY**—You are developing a new system before the other one is fully implemented?

**Ms Bryant**—We do not propose to pursue it any further—to invest in it or implement it further—because it would be fruitless, four months from the end of this year, given that the system will not operate from 1 July in the department's IT environment.

**Senator SHERRY**—What if you strike a similar sort of attitude in respect of the new system?

**Ms Bryant**—We will obviously make earnest endeavours to avoid those problems. For that reason, we are seeking to construct a system that is purely about reporting to the department. Organisations can then have their own client management systems. They will be able to continue to use the old client information system as their management system if they choose to. They will have the right to use the IT product which they were given historically, but we will not be investing further in upgrading it or developing it. We will try to have the new product serve a sole purpose and serve it effectively.

**Senator SHERRY**—You are not saying this directly, so I will give you the opportunity to do so. It seems to me that there is some level of frustration in the department with the process and the problems that have occurred around this issue to date.

**Mr Vardos**—It is a matter of historical record now. We were perhaps too consultative and too willing to accommodate the complaints and concerns of the MRCs rather than being unilaterally prescriptive in the way we introduced it.

**Senator SHERRY**—So you are going back for another round of consultation? You have another draft discussion paper going out.

**Mr Vardos**—The next system that will be introduced is one that is accepted universally up-front and serves the needs of both parties rather than leaving leeway for complying or not complying.

**Senator SHERRY**—Do the MRCs themselves pay the costs involved in the problems that were encountered?

**Ms Bryant**—I would have to check on that and on all the circumstances that have arisen in previous years. I do not know the answer. Certainly for a proportion of those occasions the department was investing resources in improving the performance of those IT products.

**Senator SHERRY**—What was the cost of this national computerised settlement client information system?

**Ms Bryant**—I would need to take that on notice. Is there a period of time you would want the information in respect of?

**Senator SHERRY**—I am asking for the cost of development, the ongoing costs and any necessary costs that the department had to bear to pay for the particular problems that were encountered. From what you are saying, you do not want to see a repeat performance.

**Mr Vardos**—We are not going to throw good money after bad.

**Ms Bryant**—We have got two goals in refining the system. One is to make it work more effectively from a reporting and better data point of view and the second is to ensure that we do it in a way that is as streamlined and as reasonable as possible and is not an unnecessary impost on our funded providers.

**Senator SHERRY**—That other discussion paper—has it gone out?

**Ms Bryant**—It has gone out. I believe it went out in early January only to MRCs because they have a more specific interest in that instance.

**Senator SHERRY**—I have to go but my colleague will take over and she has some questions.

**Senator KIRK**—Who prepared the discussion paper?

**Ms Bryant**—The settlement branch in the department. This is the paper on the statistical reporting system?

**Senator KIRK**—Yes. Can the committee be provided with a copy of the discussion paper?

**Ms Bryant**—Certainly we can table that, Senator. I do not have it with me but I will certainly provide that to the committee.

**Senator KIRK**—Thanks. Is there any cost to implement the system?

**Ms Bryant**—I would need to take that on notice but, yes, we have projected capital plan costs for implementing the system.

**Senator KIRK**—Has DIMIA engaged any IT firms or contractors to assist in the exercise?

**Ms Bryant**—The department has a capital plan for upgrading what we call the ‘grants management system’. I cannot comment on whether the relevant corporate area in the

department engages contractors as part of its work, but it is a departmental process and overseen by the department.

**Mr Vardos**—The part of the organisation that we work with in relation to this matter is the Business Solutions Group, BSG. They are responsible for our IT architecture and systems development.

**Senator KIRK**—They are the only ones? There are no other firms or contractors involved—just BSG?

**Mr Vardos**—Whoever is involved is recruited by them and neither of us can actually comment on what expertise they buy in.

**Senator KIRK**—What consultation, if any, was conducted in relation to the circulation of the paper and particular consultations with the funded centres?

**Ms Bryant**—We prepared a discussion paper precisely for the purpose of consultation with the sector. It was sent to them, I believe, in early January. It outlined potential features of the new system and invited comment. Most of the MRCs, I believe, have taken the opportunity to provide comment and have given us written comments. We propose now to provide, if you like, a suggested response to the range of concerns that people raised and to consult further with people over the next few weeks. We will give them what we see as possibilities in the light of the comments we have received and give them a further opportunity to refine and enhance those.

**Senator KIRK**—So you sent out the discussion paper in early January and you got responses back obviously quite quickly given that is only the middle of February.

**Ms Bryant**—Yes.

**Senator KIRK**—Then you are going to draft the suggested responses and send it back to the centres for their further comments. Is that correct?

**Ms Bryant**—Yes, we will talk further to the centres.

**Senator KIRK**—What sort of time frame do you have for this whole process of consultation? When is that likely to end?

**Ms Bryant**—The central end point is that the current system will not operate from 1 July 2004 and therefore all our systems development and the implementation of a new system needs to be in place from 1 July. We are seeking to finalise, basically, the architecture of the new arrangements by the end of this month or early March simply so that the IT people will have time to write the necessary system directions to make it work.

**Senator KIRK**—What are the objectives of the exercise, the aims that DIMIA has in mind in introducing the system?

**Ms Bryant**—We would like to be able to provide parliament, ministers and the community with enhanced program performance information. Last estimates we tabled a document called *Australia's support for humanitarian entrants* and in that we published a good deal of aggregate data about the performance of IHSS services. It showed the main language spoken by people, the main users of particular services, costs and the source countries that people came from. The feedback to us on all of that information is that it has been very useful to the

sector itself. We would really like to be able to create parallel information about those using migrant community services and publish it as aggregate data so that the community is informed. It would also improve our understanding of where there may be gaps: if we could show that perhaps Chinese speakers were not accessing services in particular locations, it would guide us in being able to direct our promotional strategies and methods of improving access for those people. Those are basically the purposes we have in mind.

**Senator KIRK**—I understand that the draft paper requires MRCs to record and pass on to DIMIA the visa number of every client who attends an MRC for more than one hour—is that correct?

**Ms Bryant**—The work of MRCs as we understand it is divided into two parts. There are people who come in very briefly and just seek a form over the counter for a quick piece of information. Obviously we do not wish to create an onerous burden on organisations to collect and provide a great deal of individual client data in respect of brief contacts, but we do want to enhance our understanding of those clients who are provided with more extensive casework counselling and support. And yes, the discussion paper did canvass the provision of visa numbers for those people as a means of reliably collecting information.

From the visa number obviously we can link it to departmental systems, such as the Adult Migrant English Program, which also records people's visa numbers because that is relevant to assessing their entitlement. We can then see whether they are or they are not using certain mixes of services. The broader departmental systems are where, with a minimum of effort, we can collect source country and that sort of information without forcing the organisation to individually collect all the information. So from the visa number we can extract that type of data without it being a burden to others.

**Senator KIRK**—So MRCs will be collecting visa numbers and passing them onto DIMIA. DIMIA will use it for what purpose?

**Ms Bryant**—To produce aggregate data of the type—illustratively—that is recorded for IHSS in the booklet I have referred to.

**Mr Vardos**—In essence, what we are trying to do is make sure that the funds we direct to settlement services are used efficiently and that we are meeting the needs of the clients. Unless we know what it is they are asking for, what they are walking in the front door for, we cannot ensure that our programs meet their needs. It helps us plan better and support the MRCs to deliver services that the clients want.

**Senator KIRK**—Then why limit it to people who are in the MRC for more than an hour? Why would you not seek that information from everybody, even those who just come in to pick up a form or what have you across the counter?

**Mr Vardos**—Some people use MRCs as drop-in centres. They come in, sit down and read some brochures. In that sense, you do not want to waste resources on a situation where services as such are not being delivered. We have set a threshold; we figure that an hour is about the length of time you could consider to be a reasonable level of interchange between a person who walks in the door and the MRC workers.

**Senator KIRK**—I understand that it is an hour across one or more consultations. A person might come in four times for 15 minutes and that would account for an hour, and they would then have to be providing their visa number—is that correct?

**Ms Bryant**—In seeking community input, obviously what we are trying to do is strike a balance between how onerous the requirement might be on organisations—and clearly we do not want to make it too onerous—and asking them to do it where the contact is minor and trivial. The use of 15 minutes or an hour over a period of time is indicative only. It is intended to illustrate to people that if you have a pattern of repeat contact where the relationship is ongoing then it is sufficiently important to record. If it is a one-off thing then it is clearly less indicative of the pattern of ongoing work of the MRC or CSSS funded organisation. But it certainly was not intended to be a precise requirement that if you have seen them for more than an hour in total you have to do X. It was illustrative of how you might form a judgment that it is a case where you have an ongoing relationship which is, hence, worth reporting.

**Senator KIRK**—There are clearly privacy issues that arise out of this kind of matching, wouldn't you agree?

**Ms Bryant**—We have sought some legal advice on that issue. I am advised and I understand that there is not a privacy issue where the data is simply recorded as part of DIMIA's internal business and used only within DIMIA's internal systems. The data that we produced and published would of course only be aggregate data, and there would be no question of identifying individuals in that way. Its sole use as part of DIMIA's internal systems is part of DIMIA's overall internal business, to which visa numbers are relevant. Hence our advice is that it is not a privacy issue.

**Senator KIRK**—What are the safeguards—

**Ms Godwin**—Could I interrupt just for a minute to make one general point. One of the other issues that was canvassed in the settlement services review was the importance of needs based planning. It was the view of our community contacts, not just the departmental view, that we should put more effort into developing more rigorous needs based approaches to the way we plan our services, deliver our services, fund our services and do all those sorts of things. The process that Ms Bryant is referring to is obviously an element of that. In order to assist us to develop better needs based planning processes, we clearly need better data. A lot of the data we have got at the moment is anecdotal and not comprehensive in ways that would assist in that better needs based planning. I am sorry to interrupt the flow of your questions on the privacy issue, because obviously that is a very significant concern to us as well. We do need to make sure that we have got that sensible basis for planning for resource allocation and so forth while at the same time seeking to not unnecessarily burden service delivery agencies or invade the privacy of individual clients in an inappropriate way. I think Ms Bryant was just going to go on and talk about safeguards, which was your next question. I apologise again for interrupting.

**Senator KIRK**—That is fine; thank you for that. My question was: what safeguards will be in place to ensure that the information is only used for internal DIMIA purposes and not for other purposes?

**Ms Bryant**—In part the safeguards include the government's broad framework of privacy legislation, which creates certain requirements for the department which we would seek to adhere to. Clearly the detail of the arrangements and the safeguards that we introduce will be introduced specifically in consultation with those responsible for providing us with advice on the adherence to the privacy requirements.

**Ms Godwin**—We do have fairly broad-based rules within the department, including in our code of conduct, on our requirements for the way staff access databases. This is a department that is data rich, if I can put it that way—we have lots of databases and lots of personal information—and we have very clear rules and guidelines for staff about how they access those databases and the use to which they put such data. We have means of auditing the access people have to databases and we enhance that through training in relation to privacy legislation, through obligations under the Privacy Act and also through code of conduct processes. If there were any suggestion that people were inappropriately accessing databases, that would be a code of conduct issue and would be investigated. Not only in respect of settlement databases but more generally it is something that the department takes very seriously. So there are a variety of safeguards around this general issue.

**Senator KIRK**—Thank you, that is reassuring. My concern is also the fact that these MRCs—these community organisations—will also be collecting this information: collecting the visa number and potentially finding out information about the individuals concerned. Did the legal advice you sought canvass that issue about the third-party collection of information which is private to an individual?

**Ms Bryant**—I would have to check the detail of the advice and whether it went to that specific issue. It is the case, however, that our funded organisations are required to provide services only to permanent residents; therefore, there is an implicit obligation on them to satisfy themselves that they are only providing ongoing services beyond that of information and referral to permanent residents. There is a requirement that they satisfy themselves that the people they are providing more extensive services to are permanent residents.

We also have a service agreement with MRCs which contains a privacy provision, but again I will need to check the extent to which they go explicitly to your question. In any case, if they do not, we would envisage revising them as part of the introduction of these arrangements to ensure that there were appropriate obligations also imposed on providers to protect privacy. The privacy legislation, as I understand it in general, imposes privacy obligations on any Commonwealth funded organisation, but I will also look at what our service agreement contains.

**Senator KIRK**—Could you provide the committee with a copy of the legal advice?

**Ms Bryant**—I will certainly check whether that is something that we can do.

**Mr Vardos**—Given your concerns, and as a final comment on this from my part, I need to emphasise that the database we are going to be putting together is not for the purpose of identifying individuals and their personal circumstances; it is to identify categories of persons as clients of these centres.

**Senator KIRK**—Thank you. There has been a lot of talk about the privacy legislation. Was the Privacy Commissioner consulted and was his advice sought in relation to this identification system?

**Ms Bryant**—I would need to take that on notice. We have consulted with those responsible for privacy matters within the department, but I am not fully aware of who they may have consulted in providing us with subsequent advice. We will need to take that on notice.

**Mr Vardos**—We have a work unit that is dedicated to freedom of information and privacy legislation. That is our first point of contact for seeking advice on such matters. They then go out to whoever they need to.

**Senator KIRK**—What would DIMIA do in the event that there were clients unwilling or unable to provide their visa number when accessing services? What are MRCs meant to do in that situation and what would DIMIA's response be to that?

**Ms Bryant**—I guess in terms of a reporting response our main interest is obviously in the aggregate data, and statistically you would probably technically create a category called 'Other' for non-reported data. Our hope would be that that was not too large, because it would significantly undermine the accuracy of the picture that we could provide—indeed, back to organisations themselves—about the overall pattern of who was being reached, who was not and where the gaps might exist.

**Senator KIRK**—That suggests that it is not compulsory or obligatory for the individuals to provide their visa numbers.

**Ms Bryant**—I doubt we could make it obligatory for the type of service that they provide, but again that is an issue we will take on notice. In terms of our reporting, it would be a kind of non-reported category.

**Ms Godwin**—Mr Vardos made the point earlier that the focus of our service delivery in the settlement area is recently arrived and newly emerging communities. That is the priority, but it does not presume that everybody falls into that category. Clearly one of the things that will be interesting for us and for the service providers themselves to assess, as Ms Bryant said, is the extent to which they are successfully reaching out to those sorts of clients. It would not be unreasonable for a service provider to say that someone did not or could not provide it, or in fact that they are not one of those clients—that is, they are not recently arrived or they have become citizens or something of that nature. We do not exclude that as a possibility, but clearly we are interested that service providers are focusing on the priority target group, as are they of course.

**Senator KIRK**—So it is only the visa number that is going to be collected. There will not be information sought about the client's address or demographic data or anything along those lines.

**Ms Bryant**—No. At the point of entry the visa number tells us their intended place of residence, but as people move over time that clearly becomes a less current record. In the main it simply records demographic data such as the country of origin. It contains broad data about the age group profile and the migration category that people are in, whether they are in the humanity stream or the family stream et cetera. Depending on the particular visa category,

it may also enable us to look at issues like ethnicity, the language spoken, the requirement for an interpreter and some of those types of data items. Certainly for humanitarian entrants a lot of that information is recorded. I am less confident of what exactly is recorded in family stream or skills stream visa cases et cetera.

**Senator KIRK**—Will the MRCs be able to access all of this demographic data that you have just described?

**Ms Bryant**—We would hope to produce it on a regular basis in the same way we have initiated the publication of this information. We would make it available as a product to the sector.

**Senator KIRK**—But will information about particular individuals be available for them online?

**Ms Bryant**—That is a layer of detail of development of the system that we have not got to, but in the broad we would not envisage that an organisation would be able to access online any information about individuals. To the extent that they deal with the individuals and the individuals have given them information, that should be in their own client management systems. We will be looking, of course, for ways we can efficiently make aggregate data available. Whether it is solely in the form of a booklet type publication or whether there is an online information product that they can access—for example, through the DIMIA web site—are layers of development we have not yet got to, but we do not envisage that they would be able to log in and find out information about individuals in any form.

**Senator KIRK**—There would clearly be privacy issues there.

**Ms Bryant**—Correct.

**Mr Vardos**—The model that we are following is in the booklet that Ms Bryant has shown you. Given how well that book has been received by essentially the same group of service providers and people in the sector, our feeling is that they would welcome similar data on MRC clients. As Ms Bryant said earlier on, they found the data in that publication to be extremely useful.

**Senator KIRK**—In the collection of visa numbers and information from clients, have MRCs, in response to the discussion paper, highlighted the fact that this might have resource implications for them if they are required to collect visa numbers? Is that something they consider to be of concern to them?

**Ms Bryant**—The comments that we received on the discussion paper went to a number of issues. Some were concerned at the loss of the case management facility within the client reporting system. Some did not understand that the system was intended to supplement other qualitative reporting processes, so there were some misunderstandings evident in the comments received. Some were concerned that clients might feel threatened by the collection of visa numbers. There was a diversity of comments made which went to several issues, some of which bore on the visa number question and some of which were more wide ranging.

**Senator KIRK**—And they are things that you are taking on board and you are going to incorporate into suggestions?

**Ms Bryant**—We are currently considering how best to respond to the combination of concerns raised.

**Senator KIRK**—I might now move on to the new MRC funding agreements that come into effect from 1 July. Is it the case that DIMIA has advised the MRCs that their core funded work program for 2004-05 and subsequent years must be confined to helping a narrowly defined target group?

**Ms Bryant**—The settlement services review identified priority target groups for the purpose of DIMIA's delivery of settlement services and identified those as being refugee and humanitarian entrants who had arrived in the last five years as well as family stream entrants with lower levels of English proficiency who were also recent arrivals. Those are the prime target groups. That is not to say that the system has ever been intended to be 100 per cent exclusively targeted to those people. It simply indicates a hierarchy of priorities. All the data indicates that those groups have the most extensive needs and that is where the bulk of resources should be directed, but there has been no stricture placed on our funded service providers that they should exclusively limit themselves to people in those categories. Basically there is no stricture that limits them to only those groups.

**Senator KIRK**—So if a person comes in who does not fit within that narrowly targeted group then they will still gain the assistance of the staff at the MRC?

**Ms Bryant**—Clearly if a person came in—and it would depend on the nature of the service they were seeking—we would expect our providers, being aware of the priorities that we attach to funding, to make judgments. For example, if something the client was requesting were more appropriately provided by another agency and they preferred them there or if something was going to be significantly resource intensive and the client had alternative means of accessing information or assistance, we would expect the provider to guide them there. We would expect the agency not to inappropriately invest to the disadvantage of those with more extensive needs.

**Senator KIRK**—So there is no arbitrary cut-off? You do not say, 'If you arrived here in 1998, don't worry; we can't help you,' and tell them to go away?

**Ms Bryant**—No, there is no arbitrary cut-off.

**Senator KIRK**—So it is going to be assessed on a case by case basis?

**Ms Bryant**—Yes, and we would expect the agencies themselves to make those judgments in light of the advice on the priority we expect to be attached to client service delivery.

**Senator KIRK**—I have some questions about MRCs operating in regional areas. Has DIMIA imposed any restrictions on the operations of MRCs in regional areas as to the settlement assistance they can provide to skilled migrants and their families?

**Ms Bryant**—No, we have not imposed any restrictions. They, as are all MRCs and all CSSS funded providers, are expected to apply the same hierarchy of priorities that we were discussing previously. Refugee and humanitarian entrants and family stream migrants with lower levels of English proficiency would have priority. The other thing I should say here is that we seek to direct resources in accordance with the level of need of individuals. The majority of entrants under the skill stream at present are selected precisely for their English

language ability and, in general, the fact that they have post-secondary qualifications, and therefore those individuals have greater capacity to access information via means such as the Internet, the web site and so on than do, for example, our refugee entrants out of Africa. Therefore we make products available for skilled entrants to access precisely so that they have alternative means to using MRCs. But, as I said before, there is no formal stricture. There are products that are more appropriate perhaps for some skill stream migrants to be accessing, but there may be family or dependants that would quite appropriately be using our MRC or other services, particularly in regional areas.

**Mr Vardos**—Senator, skilled migrants are better equipped to navigate their way through the service delivery agencies across the broad spectrum of both state and federal government service delivery, so we would expect them to use mainstream service delivery agencies rather than MRCs.

**Senator KIRK**—Is there some sort of process for overseeing whether or not the hierarchy of priorities, as you describe it, is being adhered to by the MRCs? Are there some performance measures?

**Ms Bryant**—Clearly the performance of MRCs is one of the purposes of the reporting system that we were discussing earlier. It is part of a performance and accountability framework. One of the reasons that we want the new system is to ensure that they are accounting in a proper way for operating in accordance with the arrangements and the priorities that attach to their funding. That function is clearly in addition to the roles Ms Godwin was discussing earlier in terms of planning and advice to the community itself.

**Senator KIRK**—I gather from what you are saying that in 12 months time there will be some review of the MRCs' functions over the past 12 months, by way of considering their reports, and there will be some consideration given as to whether or not this hierarchy of priorities has been followed. Is that correct?

**Ms Bryant**—We currently receive reports from MRCs and CSSS organisations. They provide us with qualitative reports against their work program. That gives us qualitative information about the focus of their service delivery, and clearly we monitor that information. Our state office network has extensive contact with our funded providers, in terms of both negotiating their work programs and monitoring their adherence to them. We think our qualitative ways of assessing that they are focusing appropriately are reasonably good. Our quantitative information is not of such a high level, and that is clearly why we are seeking to improve it, in the interests both of reporting and accountability and of future planning and all those sorts of things.

**Mr Vardos**—The principal relationship between DIMIA and the organisations is, as Ms Bryant has said, through our state and territory offices. There are staff in those offices that are specifically dedicated to the development of a relationship with each of the MRCs. That is where the dialogue occurs on a regular basis.

**Senator KIRK**—Thank you. I have some questions in relation to the Adult Migrant English Program. Could you advise the committee what the total allocation for the AMEP special preparatory program is for the year 2003-04?

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

**Senator KIRK**—Can you give me some guide at least as to how the allocation compares to those of earlier years? Has it gone up or down?

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

**Senator KIRK**—Are you able to tell me how many refugees and humanitarian entrants are likely to be eligible for the scheme of assistance in 2003-04?

**Ms Ellis**—As I understand it, there has been no change to the eligibility arrangements for the SPP.

**Senator KIRK**—You say ‘no change to the eligibility requirements’ but what about the numbers of individuals concerned?

**Ms Ellis**—In terms of the actual numbers accessing it, I will need to take that on notice.

**Senator KIRK**—How is the allocation for the SPP calculated?

**Ms Ellis**—It is a formula based on the numbers in the humanitarian program. There is a limit of 100 hours per person.

**Senator KIRK**—Does that work out to be 100 hours, or is it sometimes less that a person is able to access it?

**Ms Ellis**—The experience is that few people access the 100 hours.

**Senator KIRK**—Why is that?

**Ms Ellis**—There would be a range of reasons. There may be family reasons. People may well have found employment.

**Senator KIRK**—But they still do have that entitlement to 100 hours if they wish to access it—is that correct? So there are no restrictions on that?

**Ms Ellis**—As I understand it, it is not an entitlement, but there are hours that are there and available. Those who have a need to attend the SPP are assessed by the AMEP service providers. So, to the extent that there are people requiring that additional assistance in English language tuition, they are directed by a service provider.

**Senator KIRK**—It is my understanding that in some cases the real allocation is much fewer than 100 hours and that it works out to often be only 75 hours or that sometimes it is only 50 hours per student. Because you are unable to tell me what the allocation is for this year and what it has been in previous years, I am at a bit of a loss to understand why it appears that the allocation is reducing from 100 hours. I do not know if you can enlighten me on what is going on there.

**Ms Ellis**—As I understand it, the program was established to address the specific needs of torture and trauma victims. The call that there may be on the program in any particular year depends on the composition of the program. I will provide to the committee the details of the allocation, what is the average number of hours required and the number of people that are accessing the program.

**Senator KIRK**—Okay, that would be helpful, thank you. I have some questions in relation to fee-free translating and interpreting services.

**CHAIR**—That is in 2.2, isn't it?

**Senator KIRK**—I have 2.1.5 here.

**Ms Ellis**—It is 2.1.4. The actual provision of the services is under 2.2 but the fee-free policy is under 2.1.4.

**CHAIR**—We can deal with the policy but in relation to the provision of services we have not requested those officers to appear because they were not called by the opposition. You can proceed with questions that pertain to 2.1 but we cannot pursue the others, Senator Kirk.

**Senator KIRK**—They are all the questions I have in relation to 2.1, Madam Chair. I have completed 2.1 and I am ready to go on to 2.2.

**CHAIR**—We cannot do that.

**Senator KIRK**—I am sorry, there is no 2.2; you are quite right.

[5.49 p.m.]

**CHAIR**—We will move to output 2.3, Australian citizenship.

**Senator KIRK**—Could you inform the committee what the total allocation is for DIMIA's citizenship promotional activities in 2003-04?

**Ms Ellis**—The allocation for 2003-04 is \$1.9 million.

**Senator KIRK**—What proportion of that is directed towards paid advertising in the commercial media?

**Ms Ellis**—The component for creative development and talent is \$100,000, and the component for what is referred to as 'media buy' is \$1.1 million, so it is a total of \$1.2 million.

**Senator KIRK**—How much of that allocation has been spent to date?

**Ms Ellis**—I would need to take that on notice. I expect that the majority would have been spent, given that the focus of the program is on Citizenship Day in September, and Australia Day, which has just passed.

**Mr Vardos**—The next peak point in expenditure will be around Harmony Day on 21 March. They are the three dates in every 12 months where there is a heightened activity on the citizenship promotion front.

**Senator KIRK**—And the other date was in September.

**Mr Vardos**—17 September, 26 January and 21 March.

**Senator KIRK**—17 September is in the next financial year, is it not?

**Ms Ellis**—That is correct.

**Senator KIRK**—Would we expect the remainder of the money, approximately \$0.7 million, to be spent about the time of Harmony Day in March?

**Ms Ellis**—The other elements of the budget are market research, products and distribution; maintaining and enhancing the web site—we have a domain name for citizenship; expenditure on events management—we provide some support to our state and territory offices for special events as part of promoting citizenship; and some money for a non-English speaking background strategy.

**Senator KIRK**—With regard to the advertisements that we have seen recently on the meaning of affirmation ceremonies and citizenship, what is the history that led to that campaign? What was the objective or the purpose behind that?

**Mr Vardos**—It goes back to the government's original initiative in the 2001 Centenary of Federation to launch a citizenship promotion campaign which has fundamentally two elements: one is to encourage eligible noncitizens to apply for citizenship and the other is to promote and enhance the value that the community places on citizenship. The campaign was developed for 2001, and it has substantially been the same since then but with a declining budget. But one element that has increased in visibility in the past couple of years is our partnership with the National Australia Day Council. A lot of what appears around Australia Day is in fact the responsibility of the NADC, but we are partners with them. You will notice that there is an emphasis on citizenship in the NADC messages, and that is a formal partnership that we have. We also sponsored the local hero awards as part of that overall partnership with the NADC. The creative part was developed using the government's contracted artistic advertising gurus and went through the MCGC process.

**Senator KIRK**—What was the total budget? You said that this has really been happening since 2001. What has been the total budget spent on—

**Mr Vardos**—Ms Ellis might correct me, if she has a table, but my recollection is that the original budget was around the \$5 million mark. That included basically starting from zero in the development of a television based advertising campaign. It has gone from about \$5 million to \$1.9 million, which Ms Ellis mentioned earlier.

**Ms Ellis**—The original budget was \$4.9 million. In the last financial year 2002-03 the budget was \$2.129 million.

**Senator KIRK**—It is now \$1.9 million. You mentioned, Mr Vardos, the motivations behind the campaign. Is there some document or written material that sets out the things that you have just mentioned to us that you could provide for the committee?

**Mr Vardos**—Yes, I am sure that we will have a document of some kind. I cannot immediately think of which one. We will have something that sets out the *raison d'être* for the campaign and the approach that was taken.

**Senator KIRK**—That is exactly what I am looking for. That would be helpful, thank you.

**Mr Vardos**—I should add that a lot of what emerged in 2001 was as a consequence of the Citizenship Council's recommendations as well. So there were the council deliberations then into the promotion campaign and we are still part of that continuum.

**Senator KIRK**—Finally, I have some questions in relation to the AMEP's citizenship course. Could the department advise us who DIMIA considers is eligible to complete the AMEP course?

**Ms Ellis**—The course is one of a number available to clients of the AMEP. Anyone who is a client of the AMEP is able to undertake the course. Those who successfully complete the course are taken to have an understanding of the responsibilities and privileges of citizenship for the purpose of an application for a citizenship grant.

**Senator KIRK**—Are those people who present a certificate of completion of the course accepted at the interview as meeting the aspects of the Citizenship Act requirements?

**Ms Ellis**—I would need to confirm that but that is my understanding.

**Senator KIRK**—So if you complete the course you are automatically taken to have satisfied the requirements of the Citizenship Act?

**Mr Vardos**—Part of.

**Ms Ellis**—That is one of the requirements.

**Mr Vardos**—Character issues are a critical part of the consideration process and also understanding the rights and responsibilities of citizenship, which is the area that you are referring to. There is also the residency requirement of course.

**Senator KIRK**—Are all those people who successfully complete the course eligible to receive a certificate of completion at the end of the course?

**Ms Ellis**—Those who complete it successfully are provided with a certificate by the AMEP service provider and then that is presented to the department with their application for citizenship.

**Senator KIRK**—What about those who do not receive a certificate of completion—or does everybody who completes it receive one?

**Ms Ellis**—As I said, my understanding is that everyone who does complete the course is provided with a certificate. Whether it is anything beyond that I will need to check and get back to the committee.

**Senator KIRK**—But if you have not completed the course I presume there are other ways that you can satisfy the requirements of the Citizenship Act.

**Ms Ellis**—If an AMEP client commenced the course and did not complete they would not get a certificate and so they would be required to satisfy the department of their knowledge of the rights and responsibilities in the same way that applicants who do not attend the AMEP satisfy that, and that is at interview where they are asked about their knowledge.

**Senator KIRK**—Those are all the questions I have on 2.3.

[5.58 p.m.]

**CHAIR**—Thank you, Senator Kirk. We will move on to 2.4, which is the appreciation of cultural diversity.

**Senator KIRK**—I have no questions in that area.

**CHAIR**—As there are no further questions for outcome 2, I thank the officers for their assistance with the committee's deliberations. We intend to proceed to OATSIA, which has been arranged in advance, with questions from Senator Crossin. When we come back after dinner we will continue in the Indigenous area but we did not want to take an extended break if we could avoid it so we will do this now.

**Senator CROSSIN**—I will perhaps make it clear to people that we will ask the bulk of our questions after the dinner break when Senator Kerry O'Brien, our new shadow minister for Indigenous affairs, is here. He is currently tied up in another committee so I will make a start

on some issues that I want to personally pursue. I apologise if they are a bit all over the place for the first half hour. I will take you to an issue that you are more than likely pursuing in conjunction with the Department of Communications, Information Technology and the Arts—that is, the Indigenous broadcasting sector. There was a 2001 election policy to examine and strengthen the Indigenous broadcasting sector. Has your office had a role in that policy development or is that more ATSIC?

**Mr Vaughan**—I am not even sure that it is ATSSIS, although ATSSIS by virtue of the fact that it does run some broadcasting programs itself may well be more familiar with what is happening in the DCITA portfolio in that regard than I am. I am not really in a position to help you in relation to that. It is not within our direct portfolio. It may depend on the questions you have, but I must say at the start that it is not something with which we have been involved.

**Senator CROSSIN**—I am certainly aware that such a policy was being done in consultation with ATSIC rather than with ATSSIS. I just wondered if your area had some sort of cross-portfolio role to play in the development of that policy.

**Mr Vaughan**—Not in respect of that issue but ATSIC may well be more familiar with what is happening.

**Senator CROSSIN**—Right. I will leave that for ATSIC. Can you provide me with an update on what is happening with the review of the tent embassy? I understand that a report was being commissioned by ATSIC Queanbeyan Regional Council. Can you give me an update on what is happening in relation to that?

**Mr Vaughan**—I am afraid that that in particular is a question which ATSIC would be more familiar with. I know they have been undertaking consultations with some of the original founders of the embassy following the Queanbeyan regional council consultant's report, but I am not sure at what stage they are at in those consultations. You would have to take that up with ATSSIS after they arrive.

**Senator CROSSIN**—So it is not a matter which your department has some sort of watching brief or liaison role with ATSIC on?

**Mr Vaughan**—The community consultation process is being undertaken by ATSIC through the regional council. They are in the process of trying to develop a common Indigenous or ATSIC position on the future of the embassy. At this stage we are all awaiting the outcome of that process.

**Senator CROSSIN**—Are you aware if the report I referred to that was being undertaken by the ATSIC Queanbeyan regional council was completed in April of last year, or has it pushed well beyond that time line now?

**Mr Vaughan**—I thought that the initial report had been completed. That would be subject to confirmation from ATSIC, but my understanding was that the initial consultant's report was completed last year and they have now moved on to consultations about the future based on the findings of that report.

**Senator CROSSIN**—Can I take you to the allocation of money for the *Bringing them home* report? This is a matter I am hoping is within the area of your department rather than ATSIC. Is it?

**Mr Vaughan**—Yes, that is closer to home.

**Senator CROSSIN**—Can you provide me with an update on the allocation of money under that program?

**Mr Vaughan**—The original four-year, \$63 million budget was extended for a further four years. That is due to expire at the end of 2004-05, so it has another 15 months or so to run. Parts of the program were of a non-continuing or a terminating nature and have since been completed—for example, the National Library oral history project and most of the work being done by Archives to cross-reference their holdings and make them more accessible.

**Senator CROSSIN**—In what budgetary period did the extension of the \$63 million occur?

**Mr Vaughan**—It would have been in the 2001 budget.

**Senator CROSSIN**—Is that a further allocation of \$63 million, or a further period over which the \$63 million could be expended?

**Mr Vaughan**—It was slightly less because of the terminating or concluded projects and because ATSIC had made some adjustment to the language program component, but essentially it was all the Link Up programs, all the counsellor programs and the parenting and family programs run by the Department of Family and Community Services. Those core programs constituted the \$58 million extension.

**Senator CROSSIN**—So we had \$63 million allocated in the 1998-99 budget and a further \$53 million allocated in 2002-03 for four years. Is that correct?

**Mr Vaughan**—For four years from 2001-02, which takes us through to 2004-05.

**Senator CROSSIN**—So all up we have had a total allocation of \$116 million?

**Mr Vaughan**—I think the actual figure was \$117 million.

**Senator CROSSIN**—Since 1998-99?

**Mr Vaughan**—That is correct.

**Senator CROSSIN**—Last time I asked for a breakdown of this. When I checked my records I found that I only had a breakdown to 2001-02. What I am actually asking is for an update of the table. I am referring to an answer on notice to a question asked at the 28-29 May 2002 estimates hearings. The question is No. 149. You provided me at that stage with a breakdown of the Link Up moneys. Would you be able to provide me with a table that updates that amount of money to this period of time? The table stops at 2001-02.

**Mr Vaughan**—We could provide a table showing the total amount for Link Up each year. But if the data you are referring to is the break-up of that amount between each state or each Link Up, ATSIC would be the ones to provide it—and we can arrange for that—because they administer the Link Up program.

**Senator CROSSIN**—If you could take that on notice, I would appreciate it.

**Mr Vaughan**—Yes.

**Senator CROSSIN**—Where are we at with the language and cultural maintenance aspect?

**Mr Vaughan**—That element of the program is being managed by ATSSIS; we would have to ask ATSSIS officers when they are here.

**Senator CROSSIN**—You do not have a breakdown of how much money has been appropriated against that arm?

**Mr Vaughan**—It was originally \$9 million over the first three or four years and I think the amount for the second four years was varied by ATSSIC, but I do not know to what extent. That accounted, I think, for part of the reduction from \$63 million to \$58 million.

**Senator CROSSIN**—Would you take that on notice as well?

**Mr Vaughan**—Yes.

**Senator CROSSIN**—I am assuming that the counsellor and the counsellor support training is a program that has been given to the Department of Health and Ageing for their administration—is that correct?

**Mr Vaughan**—That is correct.

**Senator CROSSIN**—Do you have the total amount of funding for that? My latest figures tell me they were given \$33 million by June 2002 and \$2.4 million was rephased into the 2002-03 and 2003-04 financial years. Would you be able to give me an update on whether those amounts are still accurate?

**Mr Vaughan**—We could ask the Department of Health and Ageing for the latest information, yes.

**Senator CROSSIN**—Can you explain to me how that happens? They are not accountable to you for the expenditure of those funds?

**Mr Vaughan**—No, the money is appropriated directly to them through the appropriation bills but the original package, of which that is part, was a package which we put together for the government and put to the government following consultation with other agencies. Once the government had made its decision on which elements of the package to endorse, the money was appropriated to the agency responsible for that area, whether it be Health, the Archives, the National Library or ATSSIS.

**Senator CROSSIN**—Who is responsible for reporting against the expenditure of that money and on any indicators or outcomes against the money?

**Mr Vaughan**—The individual departments are. For example, ATSSIS would in respect of the Link Up program; Health and Ageing would in respect of the counselling program.

**Senator CROSSIN**—And that is acquitted and accounted for in their annual reports; they do not have to report back to you as the central body?

**Mr Vaughan**—Not in the way they do in their own annual reports, but in our department's annual report we put in an appendix each year which summarises the across-the-board developments, progress and outcomes in respect of each component of the package.

**Senator CROSSIN**—Is that in your annual report?

**Mr Vaughan**—It is an appendix you will find in our annual report which summarises the current position in respect of the package.

**Senator CROSSIN**—I think the final figures I was also after were an update on the expenditure by the Department of Family and Community Services in respect of the parenting and family support services.

**Mr Vaughan**—We would have to go to Family and Community Services to seek the information for you.

**Senator CROSSIN**—Thank you. The \$117 million in total is expected to be expended by what date?

**Mr Vaughan**—By the end of June 2005.

**Senator CROSSIN**—At this point in time, as the coordinating agency, would you have any idea of what is left in that appropriation?

**Mr Vaughan**—It was a fixed appropriation for each year, so there would only be the 2004-05 and 2005-06 appropriations to go, subject to any rephrasing that might have happened as a result of this year or the previous year where money was effectively carried forward.

**Senator CROSSIN**—You do not have with you those amounts for the fixed appropriation each year?

**Mr Vaughan**—I do not have them with me but I can tell you what the break-up of the money was over the quadrennium.

**Senator CROSSIN**—So what are we looking at for the 2003-04 period?

**Mr Vaughan**—In round terms it would be in the order of \$15 million.

**Senator CROSSIN**—And for the 2004-05 period?

**Mr Vaughan**—A similar amount. It is basically the same amount each year, with a parameter adjustment, I think.

**Senator CROSSIN**—That \$15 million is expended across a range of programs.

**Mr Vaughan**—A range of portfolios and programs—that is correct.

**Senator CROSSIN**—So we would need to wait for any budget papers to see if there has been an underspend of that \$15 million this year with a carryover into the next financial year?

**Mr Vaughan**—That is correct. You would not know the situation this year at this stage unless it had been reflected in any of the additional estimates bills, but I am not aware that it has been.

**Senator CROSSIN**—I have some questions in relation to employees in ATSSIS. I am assuming that is probably best left, though, to ATSSIC and ATSSIS when they are here after dinner. Would that be right?

**Mr Vaughan**—I am afraid so, yes.

**Senator CROSSIN**—Can we get answers now to questions about the COAG trials?

**Mr Vaughan**—That is within our department, but the officers responsible will not be here until after dinner.

**Senator CROSSIN**—Discussion about the division of ATSSIC and ATSSIS, and the ATSSIC review: is that best left until after dinner as well?

**Mr Vaughan**—I can possibly assist you on some of that, depending on the degree of detail you want to go into.

**Senator CROSSIN**—When I look at these questions I think they are probably best answered by ATSIC. I asked questions in November about a number of organisations that had applied to ATSIC for funding but had to reapply when the division occurred. ATSSIS took the matter on notice and provided an answer, and I want some clarifications about it, so I guess that one had better wait. We might be having an early dinner break while we wait for officers to get here.

**CHAIR**—Mr Vaughan is being as helpful as he can.

**Senator CROSSIN**—The majority of my questions are on CDEP.

**Senator Vanstone**—Does that mean we can say that there are no questions for OATSIA?

**CHAIR**—No, we cannot, Minister, because we have Senator O'Brien, who has some questions, to contend with as well. We have gone into extensive negotiations this afternoon behind the scenes.

**Senator Vanstone**—I understand; I am not pointing the finger. That is just how it happens.

**CHAIR**—It is because of conflicting committee timetables and things like that, as we are all used to.

**Senator CROSSIN**—I have Senator O'Brien's brief here but I think the majority of his questions go to either the review of ATSIC and ATSSIS, and CDEP, or some of the other agencies.

**CHAIR**—On that note, Senator Crossin, whilst appreciating your efforts and Mr Vaughan's to assist the committee this afternoon, the committee will adjourn early for the dinner break but we will reconvene at the advertised time because people have made commitments based on that.

**Proceedings suspended from 6.19 p.m. to 7.32 p.m.**

**CHAIR**—We will reconvene and continue as we were before dinner with the Indigenous component of the portfolio. It would seem, on advice from Senator O'Brien, that most questions which go to OATSIA and Mr Vaughan have probably been addressed. You might like to stay with us for a little while and see if that is the case, but if they do come up later in the evening and you are not here then we will have the questions to OATSIA put on notice.

**Mr Vaughan**—I will probably stay around for a little while.

**CHAIR**—Do we have the Torres Strait Regional Authority present?

**Mr Vaughan**—Mr Fordham was due to be here but he is not here at the moment. If he was flying down today he could have been a victim of the airlines, I suspect. We will try to find out where he is.

**CHAIR**—Thanks, Mr Vaughan.

[7.34 p.m.]

### **Indigenous Business Australia**

**Senator O'BRIEN**—Thank you for coming Mr Myers and Ms Price-Beck. Indigenous Business Australia's annual report says your net equity as at 30 June 2003 was \$77.5 million, up \$5 million from the previous financial year. What is the equity level now?

**Mr Myers**—At the moment the equity level would probably be of the order of \$79 million to \$80 million—that is on consolidation. We expect further growth between now and the end of the financial year.

**Senator O'BRIEN**—Where will that growth come from?

**Mr Myers**—The income that will flow between now and the end of the year from the investments that we have at the moment and the cash that goes onto our balance sheet. Also, we are in the process of finalising the revaluation of a number of properties as part of our normal cyclical revaluation program. So it will be a combination of cash coming in from investments plus the increased carrying value of some of our existing investments.

**Senator O'BRIEN**—So the equity level is reflected in cash, and business and property equity?

**Mr Myers**—Yes, the equity level is basically the carrying value of our investments together with cash on hand at the time that the exercise is concluded.

**Senator O'BRIEN**—What is the cash situation now?

**Mr Myers**—At the moment we are probably running at between \$2 million and \$3 million cash—we are at an all-time low in respect of our cash holding.

**Senator O'BRIEN**—What do you expect the cash holding will be at the end of the financial year?

**Mr Myers**—I would expect it to be of the order of \$4 million, based on income coming in from investments between now and then.

**Senator O'BRIEN**—How often is the equity portfolio revalued?

**Mr Myers**—Under the Australian Accounting Standards, the methodology of valuation which IBA uses is that all investments other than brick and mortar investments are carried at investment cost or realisable value, whichever is less. So, in other words, you do not write up the carrying value of non-property investments during the life of the investment. If you make a profit at selling then you bring the cash profit forward at that stage. With property investments our approved methodology is to revalue all our properties on a three-year cyclical basis.

**Senator O'BRIEN**—What proportion of property is being revalued this year?

**Mr Myers**—This year we will be revaluing approximately \$16 million worth of property as part of this year's exercise.

**Senator O'BRIEN**—Over the next 12 months what would be the value of loans which will mature and that you expect will be repaid?

**Mr Myers**—IBA's core business is not to make loans; we only make loans incidental to joint venture operations, so it is a very small part of our portfolio.

**Senator O'BRIEN**—In terms of realising some of the equity, what is IBA's likely position to be over the next 12 months?

**Mr Myers**—For every investment we go into we identify an exit strategy, so the legal documentation is prepared. Joint venture documentation will normally have put and call rights to the other joint venture partners so that we are able to exit from those investments in an orderly manner. At the moment we are in the process of selling one investment in Victoria. We do not have any other proposals on the horizon to sell, so it is only exiting from one over the next 12 months.

**Senator O'BRIEN**—The report notes a substantial increase in Indigenous employment in your investments. Does that reflect increased Indigenous employment generated by new investments over the past year? Or is it a changed employment profile across the range of investments?

**Mr Myers**—The increase in the last reporting period is largely attributable to Ngarda Civil and Mining, which is a new investment in Western Australia, but we have been active in trying to increase the employment outcomes across a range of investments. Obviously not all investments are suitable for getting good employment outcomes, but with those for which we think we can maximise employment outcomes we have put in place training strategies to try to facilitate long-term Aboriginal employment. Even though employment and training is not part of our legislative charter, clearly our board believes that it is something that people will measure us by, so we are doing everything we can to maximise the employment outcomes within our existing investments. Certainly when we look to new investments, while commercial criteria, or commercial outcomes, is a prerequisite, obviously we will give preference to those investments in which we can create employment and training opportunities.

**Senator O'BRIEN**—How many Indigenous employees does IBA have?

**Mr Myers**—IBA itself has only 15 staff of which five are Indigenous.

**Senator O'BRIEN**—Are they based in Canberra?

**Mr Myers**—Yes, all our operations are based in Canberra.

**Senator O'BRIEN**—The report says that IBA's capacity to invest in projects is limited by a number of factors, including a limited capital base restriction on borrowings and a lack of equity and commercial skills amongst Indigenous partners. In respect of the limited capital base, what capital injection does IBA require?

**Mr Myers**—Our board has the view that, if in an ideal world IBA had an asset base of \$150 million as a minimum and averaged a 10 per cent rate of return, that would leave \$15 million a year for new activity. With the capital base as it is at the moment, which is about \$80-odd million, by the time you take out running costs et cetera it does limit your amount of capacity to respond to new investments, which means you always have to manage the exiting of existing investments to take up and create extra cash to maximise new investment opportunities.

**Senator O'BRIEN**—Has IBA sought further injection of capital from the government?

**Mr Myers**—We certainly seek injections of funds from time to time as part of the new policy process. We did have a one-off cash injection in 1998, if my memory is correct, but we have not had any further cash injection since that time.

**Senator O'BRIEN**—How much was that injection?

**Mr Myers**—That was a \$10 million one-off cash injection.

**Senator O'BRIEN**—When did you last seek a capital injection from the government?

**Mr Myers**—We put up a proposal as part of the current budget rounds, so we put up a proposal late last calendar year. But, given the overall competition for new funds, we were not successful this time, so we will try again next year.

**Senator O'BRIEN**—You never know in an election year, do you? In respect of IBA's concern about a restriction on borrowings, can you explain how it impacts on IBA's activities?

**Mr Myers**—Under the legislation enacted in 1989 we have had an inhibition to borrow unless it is for short-term needs—in other words, if we are short of cash we can borrow for an immediate circumstance. What this means is that, while IBA's investments and business activities can certainly borrow at the company level, IBA itself cannot raise broader money in the commercial marketplace using, say, its raft of properties as security. So, at the IBA level, because of the restriction on borrowing, we really are restricted to government intervention to increase our capital base. We have from time to time put forward cases to restrict or remove that restriction so that IBA, hopefully in a proper commercial manner, can raise funds in the open marketplace.

I have to say there is a view that is developing both within Treasury and the Department of Finance and Administration that perhaps we should be moved to be a GBE, which would then remove that borrowing restriction. We could then borrow in the commercial market place or, conversely, borrow from the federal government. We are still looking at that as a possibility, as a way forward.

**Senator O'BRIEN**—When did you last seek the easing of those restrictions?

**Mr Myers**—In a formal sense it would have been a few years ago now, at the hearing of a parliamentary committee. It was one of the committees looking at Indigenous business. That is going back a number of years now. We raise it from time to time. For example, when IBA was formed out of the CDC, which was in the year 2000, we raised it as a possible amendment. It was part of a raft of amendments going through at that stage, but the amendment was not accepted at that point in time.

**Senator O'BRIEN**—With respect to Indigenous equity, your annual report says IBA's relationship with ATSIC has been strengthened to assist Indigenous participation in investments. Can you explain how the separation of powers between ATSIC and ATSI has impacted on this relationship, particularly with respect to banking?

**Mr Myers**—I suppose there are two issues. Under the previous model of ATSIC, regional councils were empowered to put money into regional land funds and then we could work with those regional land funds looking at investment opportunities at that level. With the creation

of ATISIS, regional councils no longer have those discretionary funds to put into the land funds, so that avenue has come to an end.

**Senator O'BRIEN**—I think your report says it is a stalemate.

**Mr Myers**—On the banking front, which is the second part of your question, IBA, ATASIC and ILC had been looking at a concept of going to the marketplace, the banks, and putting our collective banking out to tender on the basis of trying to encourage banks to be more responsive to Indigenous banking needs in rural and remote Australia. Clearly, to go out to tender, the only attraction to the bank would have been to get a sizeable collective account based on cash balances. The concept was fine at the time. But then, over time, our cash balances have reduced significantly. With the formation of ATISIS, the way cash is released under the FMA Act is basically on need. The ILC also had some issues about how it had to invest its funds. So, at the end of the day, the concept fell away because the various organisations did not have the magnitude of cash balances which we thought would be attractive from the banking viewpoint.

**Senator O'BRIEN**—What resources does IBA dedicate to enhancing the commercial skills of Indigenous partners through mentoring and ongoing support?

**Mr Myers**—In our structure we basically have three sections. One section, of a couple of people, deals with finance administration. Another section deals with looking at new investment proposals, and by far our largest section deals with monitoring and participation in the existing businesses. The staff in that section spent considerable time and effort with our Indigenous joint venture partners prior to, during and after board meetings, and in all commercial considerations in respect of that business, to develop skills in participating in decision making in those businesses. They also provide from time to time support roles on community issues which might affect the businesses. They also provide advice to the communities on how it might be appropriate to use the profit distributions from those businesses and also, clearly, they work with the communities on maximising local employment and training opportunities. So it is a very active role by our staff. I suppose that is the sort of thing that makes us quite different to a normal bank or lending institution in that it is very much a hands-on support role, which would not normally happen in a commercial environment.

**Senator O'BRIEN**—How many of your staff perform that role?

**Mr Myers**—Four at the moment.

**Senator O'BRIEN**—Are there any other organisations which work to develop the commercial skills of Indigenous business people?

**Mr Myers**—I understand ATISIS has a program to assist its borrowers in developing their business skills, developing business plans et cetera. There may be other agencies that have those skills. We do not fund a service provider to provide those skills; we actually do them ourselves—it is a hands-on training role. With us it is really a question of our staff sitting down with our Indigenous partners and working through what the issues are in respect of that business, so it is a different way that we go about it.

**Senator O'BRIEN**—It is only for the partners in investments that IBA are involved in?

**Mr Myers**—With a total of 15 staff, we do not have the capacity to go beyond that at this stage. Although the act certainly provides for us to provide a broader mentoring, support and advisory role, our capacity to do it is fairly limited.

**Senator O'BRIEN**—How would you measure the success of your involvement in such mentoring and support?

**Mr Myers**—I suppose the easiest measure would be the capacity of the organisation to take over the business, to in fact buy us out and let us move on to the next investment. That, in one way, is probably the easiest measure. But in other areas it is in fact ongoing, because what will happen is that we will skill up a particular group of Indigenous executives within that community or associated with that business and then over time they will change and we will have to start with a new set. So those things do occur. But, if we look at it over the years, we have sold our total equity in probably seven or eight businesses to our Indigenous partners, and those businesses are still going on and performing well. So that is probably the easiest measure.

**Senator O'BRIEN**—Does IBA have a blanket ban on investment in non-industry related transport infrastructure? In other words, you are not driving someone to or from a mine or something but actually providing a transport service for a community or—

**Mr Myers**—We have a number of investments in the area. We have one up in Cloncurry in a joint venture situation where we are providing the transportation of ore concentrate for the mine there to Mount Isa. We also have a shipping operation in Borroloola which provides a transport service for the MacArthur River mine to take product from the port out to deep sea shipping. Those investments have all been very successful. They are obviously quite capital intensive but very successful.

**Senator O'BRIEN**—What about non-industry related transport infrastructure?

**Mr Myers**—We do not have such a ban; we just have not had any such proposal presented to us to consider. The only thing we have had any nervousness about, I have to say, is agricultural based investments in terms of just trying to get a genuine commercial outcome.

**Senator O'BRIEN**—I was in the Torres Strait the week before last and I got the impression that approaches made from that region for support for transport infrastructure were met with a 'we do not finance that sort of thing' response.

**Mr Myers**—If it is the project I am thinking of, Senator, what I would probably put to you is that we were presented with a proposal in which a third party was trying to sell a business to the local Indigenous community. We did a due diligence on that. The asking price was probably three times what the real value was and we provided that advice to the community. It was not a question of not supporting; it was a more a question of saying, 'This is not worth the price being asked'.

**Senator O'BRIEN**—So there is no ban. You would finance the right project.

**Mr Myers**—If the proposal met normal industry standards we would certainly look at it.

**Senator O'BRIEN**—The annual report notes that IBA continues to seek to improve geographical balance in its investment portfolio. Returning to the issue of the Torres Strait, what investments does IBA have in that region?

**Mr Myers**—We had one a number of years ago, which was a land development proposal. At that stage there was a fair bit of land speculation going on resulting in excessive prices for housing blocks et cetera for community people. We bought a fairly large block of land and did a subdevelopment and then worked with the Torres Strait Regional Authority on advice on whom to sell the blocks to et cetera. That was concluded a few years ago. We have looked at additional investments. We have looked at a motel development. We have looked at that transport operation you referred to earlier. We have looked at a foreshore development. None of those have proceeded either because the prices were wrong—in other words, it was not commercially sensible—or in the case of some others it was more that the community did not show sufficient interest for us to go into them. Yes, we have had an investment there and we continue to look when worthwhile investments come forward.

**Senator O'BRIEN**—The annual report reveals that IBA holds no investments in Tasmania although it notes that a sold-down investment in the Tasmanian Investment Corporation has secured sustainable economic benefits. Nevertheless, there has been no investment in Tasmania for the past two years. Do you seek to distribute your investments geographically or is it just a matter of chance that you might or might not be in a particular region?

**Mr Myers**—We try to achieve two balances: one is industry diversification and the other is geographic diversification. That is basically just good risk management. In the case of Tasmania you are absolutely correct. We had three fairly substantial investments down there and they were sold to our Indigenous partners back in 2000. Since then we have looked at a number of other investment opportunities down there. We have looked at an agriculture investment and an aquaculture investment, neither of which passed the commerciality test. We were also approached about a loan for a commercial building which we looked at seriously, but at the end of the day the community organisation was able to obtain local finance from its bank on quite attractive terms and so did not need us, which is a good outcome. In fact our general manager has been in Tasmania for the last two days discussing possible investments in the fishing industry. So we certainly are looking for further investments in Tasmania but, again, they have to pass primarily our test of commerciality.

**Senator O'BRIEN**—I presume that you do not have expertise on hand for all sectors and would buy in professional advice for particular proposals.

**Mr Myers**—Yes. It is a combination of two things. The majority of our staff who are associated with either the assessment of projects or the administration of projects are qualified accountants, agricultural economists et cetera. But you are right. Given industry diversification, we also supplement the accounting type assessment with industry expertise. We go to selected consultants who have a track record in that industry. We tend not to use general accounting firms; we go for specialised advice where they can value add about the risks et cetera relating to that industry sector and we complement that with our own financial analysis of the business.

**Senator O'BRIEN**—How is the board of IBA selected or appointed?

**Mr Myers**—The act provides for the minister to appoint the board members, and under government protocol the minister consults with cabinet about that. Names come forward from a number of areas. Sometimes individuals put their names forward and seek appointment.

Other names are given to us by other parties saying, 'We think so-and-so would be good for your board.' Within DIMIA there are people who are looking at board appointments generally, and they also can contribute names to go forward to the minister. What we tend to do is put forward a selection and offer a choice. The act, though, is fairly specific about the nature and composition of the board. It specifies that at least one of the directors shall be an ATSIC commissioner. The act also specifies the number of Indigenous and non-Indigenous board members and talks about having relevant experience and qualifications in business, community life et cetera. So whoever is nominated must meet the requirements in the act.

[7.58 p.m.]

### **Torres Strait Regional Authority**

**CHAIR**—Mr Fordham, welcome to our estimates committee. I think this our first opportunity to meet with you. Thank you very much for your attendance. I know you have come some distance; the committee is very grateful.

**Senator O'BRIEN**—Mr Fordham, thank you again for making the trip down for this hearing. As you know, I was in the Torres Strait with Senator McLucas a couple of weeks ago and I am grateful for the briefing that you and your officers provided to me while I was there. Is this the first occasion on which TSRA have been at estimates?

**Mr Fordham**—It is the first time during my period as the general manager—2½ years—although I understand that my predecessor had appeared.

**Senator O'BRIEN**—Your budget is in excess of \$50 million per annum?

**Mr Fordham**—That is right. Our appropriation is \$51 million.

**Senator O'BRIEN**—And it has been four or five years since TSRA have been through the estimates process?

**Mr Fordham**—That would be right, yes.

**Senator O'BRIEN**—TSRA made a submission to Mr Ruddock on the Torres Strait bill in June last year and that submission noted that the government had agreed to establish the TSRA under its own legislation. It proposed a reduced board and the direct election of chairpersons and members. In June Mr Ruddock wrote back to TSRA seeking further information about the proposal, and in July last year the TSRA responded to Mr Ruddock's letter with a revised proposal maintaining its request for the direct election of the TSRA. What are the budgetary consequences of the TSRA proposal?

**Mr Fordham**—There have not been any detailed costings done for any of that. The proposal is still in fairly early days. But as you know, Senator, having been there, at the moment the chairs of the communities sit on the board, and we provide funding to the councils and that supports them in their role as chair as well as being a board member. So we would have the normal office costs as well as some sort of remuneration for their role as board members if they were not chairs of their community, and so it would in effect be dual funding.

**Senator O'BRIEN**—What consideration has the government given to the proposal?

**Mr Fordham**—I am not sure if the minister wants to answer that herself. Effectively, the government's response thus far has been to say, 'We would want the TSRA to conduct further consultations on the issue and to seek the views of the Queensland government on the matter, as well as those of the Australian Electoral Commission.' What I think has stalled it thus far has been the incidence of the next round of elections, which for us is 27 March this year. Senator Vanstone has made it quite clear that there is not enough time to progress the matter prior to these elections and so she has agreed to meet the new board when they sit at the first opportunity after 27 March to progress it.

**Senator O'BRIEN**—Who conducts the elections for the chairs of the councils?

**Mr Fordham**—The Queensland Electoral Commission.

**Senator O'BRIEN**—Who is eligible to vote in those elections?

**Mr Fordham**—Anybody resident in the various communities—the 18 communities.

**Senator O'BRIEN**—So you could be of any ethnic origin and vote?

**Mr Fordham**—That is right.

**Senator O'BRIEN**—But if you are elected, then historically you have been appointed to the TSRA board?

**Mr Fordham**—That is right.

**Senator O'BRIEN**—Is lack of funding for consultation impeding progress on implementation?

**Mr Fordham**—No. One of our outputs, as can you see in our annual report, is policy and information. We had previously spent a considerable amount of money—I do not have figures in front of me—on the previous proposal, which was known as the Bamaga Accord, and that included progression of the TSRA bill, which was withdrawn by request following a large public meeting in the Torres Strait in July 2002.

**Senator O'BRIEN**—Where was that meeting?

**Mr Fordham**—On Thursday Island.

**Senator O'BRIEN**—The council on Thursday Island have very strong views that the TSRA board should be elected, as I found when I visited them on Thursday Island. When was that meeting—July 2003?

**Mr Fordham**—July 2002. Indeed, the mayor of the Torres Shire was one of the three people that formed the task force that brought the Bamaga Accord model to that meeting. The meeting subsequently threw out the Bamaga Accord as well as asked for the bill to be taken off.

**Senator O'BRIEN**—What has happened since that meeting? That is now over 18 months ago.

**Mr Fordham**—The Mayor of the Torres Shire, the member for Yam Island and Mr George Mye, who was a previous member of the TSRA and a known elder, formed a small subgroup and were to progress the issue. They met with Minister Ruddock in about November 2002. The issue sat with those three for quite some time before the member for Yam brought back

the model, which has now subsequently been to the TSRA board and has been put forward to Senator Vanstone.

**Senator O'BRIEN**—When did that happen?

**Mr Fordham**—June 2003.

**Senator O'BRIEN**—It went Minister Ruddock?

**Mr Fordham**—That is right.

**Senator O'BRIEN**—What has happened since that time?

**Mr Fordham**—That was the response, essentially, saying, 'Yes, we are happy to consider the proposal. The issues to be weighed off, though, are the views of the Queensland government, the Australian Electoral Commission and some further consultation in Torres Strait.'

**Senator Vanstone**—I have met with some people from the TSRA and you may or may not have a copy of a letter that was published in the *Torres Strait News* that I think outlines answers to any questions you might want to ask.

**Senator O'BRIEN**—I have not read every issue of the *Torres Strait News*, I must say.

**Senator Vanstone**—That, frankly, does not surprise me.

**Senator O'BRIEN**—I have picked up a few on my travels, but I have not had a chance to read them.

**Senator Vanstone**—We will get copy of this for you. I will arrange that now.

**Senator O'BRIEN**—Thank you for that. Are you aware of a community campaign encouraging these council chairs elected at the coming election to refuse appointment to the TSRA board in protest at the absence of a direct election system?

**Mr Fordham**—Yes. Again, there was one article in the *Torres Strait News*, and there are I think two or three of the current members that have responded to say that, yes, they supported the idea of a boycott—again, including the mayor of the Torres Shire. But that is about all that we have heard of. Subsequent to that—I think that is probably about six weeks old now—the issue at the local radio station, which is where the issues of the day seem to get mashed around, seems to have reduced in volume, if you like. So I would not expect that there would be a huge boycott of any of the board.

**Senator O'BRIEN**—What impact would such a boycott have?

**Mr Fordham**—Those communities that chose not to send a member along would not have their voice heard around the table, effectively. In terms of our bureaucratic and administrative systems, probably very little. We operate on a four-year development plan cycle, which is our four-year funding cycle, so each of those communities submits a development plan to which we allocate funding at any rate.

**Senator O'BRIEN**—Minister, are you committed to listening to community concerns about the process and to pursuing the issue of direct election to the board during the term of the council chairs who are due to be elected at the end of March?

**Senator Vanstone**—We would always be listening to a broad range of concerns, and that would obviously include the community's.

**Senator O'BRIEN**—What term would the chairs be appointed to as members of the board of the TSRA?

**Mr Fordham**—It is a four-year term.

**Senator O'BRIEN**—So the community is being told that they cannot have direct elections until March 2008?

**Senator Vanstone**—You might think that is the consequence and it may end up being the consequence. There is no plan for that; it is just that we cannot change it before this round of elections. You might then say, 'We want to change the act after that but before the following round of elections.' It will be up to the government to propose that and then parliament to accept it.

**Senator O'BRIEN**—If you appointed the chairs for a term of four years, that could be overturned by parliament?

**Senator Vanstone**—That is the advice I have.

**Mr Vaughan**—Because they would be appointed under the terms of the existing act, and if the existing act were repealed or altered then their terms would be affected accordingly.

**Senator O'BRIEN**—The matters which could constrain a move to direct election before March 2008 would be the attitude of the government and the will of the parliament?

**Mr Vaughan**—Yes.

**Senator O'BRIEN**—Has the government a specific process in mind to consult the community with a view to implementing a direct election process?

**Senator Vanstone**—As I said, I met with some of the TSRA people, and I think a good part of the consultations has to be handled by the TSRA.

**Senator O'BRIEN**—Are you going to task someone to consult those communities, Minister, or should they come to you?

**Senator Vanstone**—As I have just said, I think a large part of that has to be done by the TSRA. They should be doing a good part of those consultations and then advising the government on the consultations.

**Senator O'BRIEN**—How would you go about that, Mr Fordham?

**Mr Fordham**—Thus far, the senator has offered to meet with the board following, as I said, the first sitting of the new board, or shortly thereafter. We would then, I would imagine, follow a similar process to what we did with the Bamaga Accord and hold community meetings in each of the communities. We would ask people to consider that model, and any others, that they may wish to propose at the time. We would, for example, do all the normal sorts of things: put the model on our web site; float it in the local newspaper, the radio, and so forth; and produce leaflets and brochures. We would do it in Creole as well as in the other local languages, and then present that back to government.

**Senator O'BRIEN**—Will the direct election of the TSRA board issue get in the way of the proposed Torres Strait bill?

**Mr Fordham**—That, again, is really an issue for government and the people who are there. In effect it has been one and the same. At the moment, as you are aware, Senator, we operate under the ATSIC Act. The TSRA bill emerged out of the autonomy debate, if you like. What is driving the bill, in effect, is the desire for these sorts of changes. We could easily ask for a bill based on the current procedures and then look at changing that down the track, and that is probably one of the issues again for the board to consider. Thus far they have not wanted to do that.

**Senator O'BRIEN**—I can understand that. Your annual report notes that the Commonwealth and Queensland governments have agreed to fund stage 2 of the major infrastructure program, and it is apparently a three-year program. When would that program commence? What three-year period are we looking at—the end of the current financial year or the one after?

**Mr Fordham**—No, it finishes at the end of this financial year. That is stage 3; major infrastructure programs are stage 2.

**Senator O'BRIEN**—Will the program need to be extended beyond stage 2?

**Mr Fordham**—We have submitted a new policy proposal to government and have received a favourable response. Obviously we have not got anything confirmed. We have also written to the Queensland government to seek matching funding, as we did for stage 2, and we do not have any response from them either.

**Senator O'BRIEN**—How much further than an additional three years would you envisage would be needed?

**Mr Fordham**—The original estimates were based on a total management planning exercise that was undertaken for all essential infrastructure. The bill, in the original estimate back almost six years ago now, was \$100 million. We have effectively thus far received \$60 million in grant funding. Being able to spin that out with other government programs, investments of some assets and so on, we have probably achieved about \$70 million of expenditure. So this really is the final round and will complete the total management plan—the MIP 3, I should say. Stage 3 would complete that \$100 million exercise for us.

**Senator O'BRIEN**—And the communities have undergone planning processes recently which feed into that?

**Mr Fordham**—As far as the infrastructure planning goes, we have just gone through an update of the total management plans which had gone with the bids. We are currently in the process of renewing our community development plans for each community for the four-year funding cycle for the remainder of our core funding.

**Senator O'BRIEN**—Thanks for that. I regret the recent report of the death of a resident of Thursday Island from dengue fever. Alarming, a spokesperson from the Tropical Public Health Unit has described the death as 'inevitable due to the increase in dengue fever numbers over the past five to 10 years'. Can you give the committee some advice about the impact of

the current outbreak and tell the committee what special measures the Commonwealth has in place to deal with the rising incidence?

**Mr Fordham**—The issue of environmental health is primarily one for local government and the state. We were equally alarmed not only by the death but also by the reaction of Queensland Health, and the chair has written to the Premier to express his concern about that particular response. We do not believe that it is an adequate response at all. We would like to see a whole of government response for various agencies. We believe that the continuation of the major infrastructure program, which is environmental health related infrastructure—drainage, sewerage, water supply and so on—is the answer to it, as well as adequate funding for environmental health workers, health worker training and proper public education. Thus far there has been very little. Queensland Health, despite our requests, have provided very little information. They certainly have not called for a whole of government meeting. We have made that offer to them and have offered to bring together agencies like AQIS, our organisation and the ICC—the Island Coordinating Council—to try to address the matter.

**Senator O'BRIEN**—I can't help but think that the rising incidence of such a disease in Sydney, Melbourne or Canberra—should it be possible to be there—would result in a major coordinated effort on the part of the Commonwealth to control it. But there has been no consideration of Commonwealth involvement?

**Mr Fordham**—In that case, we are considering ourselves as Commonwealth and we have certainly made the offers. Our initial offer to Queensland Health to assist was probably about a month ago and it was very poorly received, I have to say. We subsequently directed the Island Coordinating Council to act. We funded the purchase of what are known as 'briquettes' to dose the water supplies and individual household tanks. We bought enough for the whole of the Torres Strait and have gone to the trouble of distributing those briquettes.

**Senator CROSSIN**—Have you had any communication with OATSI or any coordinated response from OATSI, which is the Indigenous arm of the federal Department of Health and Ageing?

**Mr Fordham**—No, not on this issue.

**Senator CROSSIN**—Have you approached them or made them aware of it?

**Mr Fordham**—No, we have not.

**Senator O'BRIEN**—Does that body play any other role in Torres Strait?

**Mr Fordham**—Through the Torres Strait health agreement, yes, Senator. Terry Waia, the chair of the TSRA, chairs that committee and there were requests made to Queensland Health to ask what was being done about it, and thus far we have had very little response from them. The subsequent death has of course made us much more agitated about the issue and more active in pursuing them to find solutions.

**Senator O'BRIEN**—You have made no contact with the Commonwealth Department of Health and Ageing?

**Mr Fordham**—As partners to the health framework agreement they would have the same amount of information as us. But we have not specifically approached them to say that here is a significant issue that we require assistance with.

**Senator O'BRIEN**—Thank you. One of the recurring issues raised with me during my visit to the Torres Strait was the high cost of living and its causes, including the high cost of transporting goods from Cairns by barge. How has TSRA sought to address this freight issue?

**Mr Fordham**—We do not necessarily see it as our issue. There is a state government statutory authority known as the Islander Board of Industry and Service established for the very reason of the high cost of fruit and vegetables and the provision of fresh fruit and vegetables and so on to the outer islands. You may have seen some of their stalls. That is their domain and their responsibility. We work closely with IBIS on a variety of issues.

**Senator O'BRIEN**—It is not just food; it is building materials, construction materials, appliances and fuel. There are all those issues apart from food that contribute to the high cost of living and the high cost of building. TSRA does not play any role there?

**Mr Fordham**—We have not at this stage, no.

**Senator O'BRIEN**—I take it that there has been no consideration of investment by TSRA in its own transport infrastructure?

**Mr Fordham**—In terms of actually buying vessels and things like that?

**Senator O'BRIEN**—Or something of that nature.

**Mr Fordham**—No.

**Senator O'BRIEN**—Any joint ventures?

**Mr Fordham**—Sea Swift operates currently from Cairns. Other than the cost we are not aware of anyone complaining about the level of service or anything like that. We had looked at a small joint venture operation with them to connect Horn Island and Thursday Island, which as you know is the airport. That is still under consideration.

**Senator O'BRIEN**—Has the issue of TSRA assisting with the transport task been raised by any of the communities in the Torres Strait?

**Mr Fordham**—It was raised at one stage. There was a small group established on Thursday Island with the Queensland health department and the Torres Shire. That was prior to my appointment. That is really where the idea of the ferry service between Horn Island and Thursday Island started. We have taken that quite a way further and conducted feasibility studies and signed a memorandum of understanding with Sea Swift to act as a joint venture partner for that. That would be a role on, role off style of operation. Nothing had gone any further. IBIS again were the key players and they have not pursued the matter. They have had a variety of issues of their own that they have had to deal with. We have not really been pursuing them on it.

**Senator O'BRIEN**—TSRA is the native title representative body for the Torres Strait. What is the position in respect of the native title claim over Iama, Boigu, Erub, Ugar, Aureed and Gebar?

**Mr Fordham**—Those claims were being progressed through to a determination in agreement with the Queensland government back in September 2002. Just prior to the Federal Court coming to Torres Strait to finalise the determinations, the Queensland government did a

backflip and changed their position on public works and native title and advised us that they believed that public works extinguished native title.

We subsequently consulted with the native title holders and traditional owners and the community generally about which position to take. They were strongly of the view that they own the country, so we tried to negotiate with the Queensland government to reconsider its position. We could not. It went to a full bench of the Federal Court in May last year and the decision came down. It was quite a complex decision but it said that public works prior to 1996, or the Wik decision, do extinguish native title and post that time they do not.

So for us the good news is that anything we have constructed since December 1996 has not extinguished the native title; but anything prior to that has, according to the full Federal Court. The Queensland elections have got in the way of any subsequent discussions, but we have kept the dialogue open at an officer level. We are still hopeful of being able to resolve the matter through a negotiated determination. The state has already offered transfers under the state Land Act for lands that it does not require.

**Senator O'BRIEN**—Minister, when are you going to the Torres Strait yourself?

**Senator Vanstone**—I was there in September, fortunately in one sense but unfortunately before I realised that I was going to change portfolios—only a few days before. I do not know at this stage. I have not locked in visiting plans for communities yet, so I just cannot say.

**Senator O'BRIEN**—You should look forward to it. You no doubt appreciated how pretty the country is, but there are a lot of issues that we will want to talk to you about.

**Senator Vanstone**—I am sure there are. Some of those things you have already raised. The infrastructure issue is an important one. You come across that in any event, I think. I went to the island of Moa. We had some discussions with them and they quickly dropped the word about the need for infrastructure. I wondered later whether they knew in advance that I was moving but I was convinced that they did not because it was such a well-kept secret. You can understand that if you go in a community services role a whole range of issues that are outside your portfolio get raised. So I have some appreciation of broader issues than those that I specifically went there for, just because they are part of the community's life and affect it.

**Senator O'BRIEN**—So you went to Moa and Thursday?

**Senator Vanstone**—I went to Thursday and then to Moa.

**Senator O'BRIEN**—Both communities, or just Kubin?

**Senator Vanstone**—Just one.

**Senator O'BRIEN**—Near the airport?

**Senator Vanstone**—St Pauls.

**Senator O'BRIEN**—The other one. Thanks for coming this far, Mr Fordham. I am sure we will see you again.

**CHAIR**—Thank you very much, Mr Fordham. We appreciate you assisting the committee.

[8.28 p.m.]

**Australian Institute of Aboriginal and Torres Strait Islander Studies**

**CHAIR**—I welcome Mr Larkin, Dr Taylor and Mr Boxall.

**Senator O'BRIEN**—I believe this is the 40th anniversary of the formal establishment of the institute—congratulations. I understand that members of the institute are appointed for a five-year period and those appointments may be renewed. How many members does the institute have?

**Mr Larkin**—Approximately 560.

**Senator O'BRIEN**—How many of those members are Indigenous?

**Mr Larkin**—About 130 or 140.

**Senator O'BRIEN**—Who is the chairperson—it is Professor Dodson, isn't it?

**Mr Larkin**—Professor Dodson.

**Senator O'BRIEN**—And Emeritus Professor Robert Tonkinson is deputy chair—

**Mr Larkin**—That is correct.

**Senator O'BRIEN**—until 15 May this year. Do you know if the appointments will be renewed?

**Mr Larkin**—Both Professor Dodson and Professor Tonkinson are elected members who are about to commence an election process with our membership in April.

**Senator O'BRIEN**—Did you say 'election' or 'selection'?

**Mr Larkin**—Election.

**Senator O'BRIEN**—There is a reference on page 127 of the portfolio additional estimates statement of a \$300,000 grant from ATSIIS for a digitisation project, a project that appears to impact on institute staffing as well. Can you tell us what that project entails?

**Mr Larkin**—Essentially digitisation is the conversion of archival material into CD-ROM format for preservation and conservation.

**Senator O'BRIEN**—Is the 2003-04 grant sufficient to conclude the task?

**Mr Larkin**—At this stage, we are able to fulfil our objectives on that funding. That funding expires in June this year.

**Senator O'BRIEN**—So the task will be completed this year?

**Mr Larkin**—Not as such. We have an extremely large collection. All we can do is set ourselves year to year targets in terms of the quantum of materials that we can convert. This is a very long-term process.

**Senator O'BRIEN**—What proportion of the task will the \$300,000 cover?

**Mr Larkin**—That is very difficult to say. I would have to take that one on notice. As I said in my previous response, we are just setting ourselves targets each year. It is complicated by the fact that we can set those targets on the existing collection, but we are always in the process of acquiring new materials so that the target goes up.

**Senator O'BRIEN**—How many new staff were employed with this funding?

**Mr Boxall**—There are nine staff.

**Senator O'BRIEN**—Over what period?

**Mr Boxall**—The current year.

**Senator O'BRIEN**—The whole year?

**Mr Boxall**—Yes.

**Senator O'BRIEN**—Are they full-time or part-time staff?

**Mr Larkin**—They are a combination, I think.

**Senator O'BRIEN**—You say you are receiving additional material on a continual basis. What storage implications are you facing?

**Mr Larkin**—Again, all I can do is to give an approximation because the collections that we acquire are not regular, in a sense, as they come to us, and they vary in size. Part of the challenge for us is the extent to which we can move some of those materials onto CD-ROM, although there is still a requirement to find a place for the originals. But our projections at this stage seem to show us that we are okay for at least the next 10 to 15 years.

**Senator O'BRIEN**—How important is the family history unit in terms of Indigenous Australians establishing a family link with country?

**Mr Larkin**—The feedback we have from people who access the program is that it is extremely important for a variety of reasons, notwithstanding the capacity to research one's genealogical history, to research issues around identity—a whole host of things. People come there with different motives.

**Senator O'BRIEN**—Will the digitisation mean that information is available remotely?

**Mr Larkin**—One of the strengths of the digitisation program is that it allows us to take materials back to communities in a format that is easily transported and accessible. In terms of storage, it is very good as well.

**Senator O'BRIEN**—How do people become familiar with the availability of your resource? Have you got a communication system with the communities already?

**Mr Larkin**—As resources allow us, and it is also balanced against a growing awareness of what that technology can offer. It is a balancing act between the number of requests that we get from all over the country and the available resources we have to hand to put to that task.

**Senator O'BRIEN**—Other than the additional funds in the additional estimates statement, what was the budget for the institute for 2003-04?

**Mr Larkin**—\$9.741 million.

**Senator O'BRIEN**—Has that been a fairly constant figure? Has that figure changed over the last couple of years or has it been reasonably fixed at that amount?

**Mr Boxall**—The base appropriation from government has been fairly steady. It has changed quite significantly from external sources, and that is mainly grants from people like ATSI.

**Senator O'BRIEN**—How much of the funding is from external sources?

**Mr Boxall**—About \$2.1 million this year.

**Senator O'BRIEN**—Thank you. I look forward to that information you agreed to supply on notice.

**Senator CROSSIN**—Has the institute got anything specifically planned for its 40th anniversary?

**Mr Larkin**—That anniversary will coincide with our conference, which we have every three years. It is due to happen in November. Our conference planning committee is actually planning to incorporate some form of celebration to commemorate the 40th anniversary.

**Senator CROSSIN**—Thank you.

**CHAIR**—Thank you very much Mr Larkin, Dr Taylor and Mr Boxall. That takes us back around the circle to OATSIA. Do you have anything further there, Senator O'Brien?

**Senator O'BRIEN**—No.

**CHAIR**—We will move to ATSIC and ATSI.

[8.38 p.m.]

### **Aboriginal and Torres Strait Islander Commission**

#### **Aboriginal and Torres Strait Islander Services**

**Senator O'BRIEN**—Mr Gibbons, you are wearing both hats tonight, I take it.

**Mr Gibbons**—Yes, I am wearing both hats.

**Senator O'BRIEN**—I will have to be very careful how I phrase my questions so you will know which one to put on when you answer. I want to know how many Indigenous people are employed by ATSI.

**Mr Gibbons**—Currently it is about 595 people who declare they are Indigenous. There are another 58 who have not declared any status, so it could be higher, but 595 certainly.

**Senator O'BRIEN**—Has that profile changed over the year?

**Mr Gibbons**—This time last year we had 575, so it has increased by 20 in numerical terms.

**Senator O'BRIEN**—Page 76 of the additional estimates statement contains variations to revenue from what is described as 'other sources'. It forecasts an increase in receipts from independent sources from \$5.275 million to \$21.838 million—an increase of \$16.651 million. That is a substantial increase. There are a number of aspects which I want to go over. Why is rent collection forecast to increase by \$655,000?

**Mr Gibbons**—I must confess I am having difficulty hearing that question. I missed part of it.

**Senator O'BRIEN**—There is a bit of an echo in the room. I wanted to know why rent collection is forecast to increase by \$655,000.

**Mr Watson**—At the time we were putting the original budget papers together, the intention was that the staff houses, which were on the ATSSIC books as an asset, would remain there and that ATSSIC would recoup any of the rent from those houses. Leading up to 1 July, ATSSIC entered into an agreement with ATSSIS to actually manage the houses on their behalf. Under that agreement the rent moneys would then flow to ATSSIS and then we would maintain the houses, maintain the asset, out of those rent moneys. We then needed to make that adjustment in the additional estimates to show that that revenue was now flowing to ATSSIS rather than ATSSIC.

**Senator O'BRIEN**—Does the consequent cost appear anywhere in the additional estimates?

**Mr Watson**—The cost would be borne by ATSSIS within its departmental vote. I would have to check with my CFO to see whether in fact there is a cost increase associated with that.

**Senator O'BRIEN**—But you said ATSSIS is being paid the rent in return for maintaining the houses. I presume that was a cost to ATSSIS.

**Mr Watson**—It will be a cost to ATSSIS. But in terms of maintaining the asset it may well be that, because it is either improving or maintaining the asset, that is a transaction in the balance sheet rather than going through our profit and loss statement. It would only be an expense if it went through the profit and loss statement of the agency, but I can confirm that. I am advised that there has been an increase in our expenses recorded in the information within the PAES.

**Senator O'BRIEN**—Can you tell me where that is?

**Mr Watson**—It should be in the budgeted financial statements. On page 86 you will see 'Expenses' and 'Suppliers'. That supply figure of \$79,536 would have increased slightly on what was shown within the portfolio budget statements in May.

**Senator O'BRIEN**—It is a lot less than the \$655,000. Where would the other moneys appear?

**Mr Watson**—I am sorry, other moneys?

**Senator O'BRIEN**—You are \$655,000 better off. You are showing that perhaps some of the figure, \$79 million for suppliers—

**Mr Watson**—The original figure supplied in the PBS which was issued with the May budget was \$78,394,000 for supplier expenses. We have now adjusted that to \$79,536,000. That is an increase of more than the \$650,000, but we have just updated the estimate for total supplier expenses for the agency for 2003-04.

**Senator O'BRIEN**—Is it possible to get a breakdown of that \$79 million figure?

**Mr Watson**—It is possible to get a breakdown but it is an estimate. It works in a different way. We have a total appropriation of something like \$168 million from government. We take out of that what we estimate our employee expenses to be, because they are a fairly set figure; we have a certain number of employees and we know what the average salaries are and so forth. The balance basically becomes our supplier expenses. We then allocate those supplier expenses to meet our costs across the agency. So, while we can break it down into things like

contractors, travel and so forth, they would obviously just be estimates. The way we actually allocate those supplier expenses within the agency is to give groups, say, a budget based on the ASL numbers they have. We would not necessarily break down that budget. Then there are the corporate costs like IT, other property costs and so forth, which we meet centrally and pay from the centre.

**Senator O'BRIEN**—Perhaps we will come back to that another time. Why is there a forecast income from Palm Island of \$200,000?

**Mr Watson**—We are estimating there a contribution from the Queensland government to some infrastructure that ATSYS is funding on Palm Island. That is their contribution towards the reticulation system.

**Senator O'BRIEN**—So it is money that the Queensland government will pay to the Commonwealth?

**Mr Watson**—It is money that we are anticipating the Queensland government will provide to the Commonwealth through ATSYS.

**Senator O'BRIEN**—I have some questions about the flexible funding pool. The pool total is \$6 million—\$3 million for the current financial year and \$3 million for the next, as I understand it. Is that right?

**Ms Hawgood**—That is right.

**Senator O'BRIEN**—From what agency budgets has that funding been sourced?

**Ms Hawgood**—From ATSYS, FaCS, DEWR, the Department of Transport and Regional Services, DEST and Health.

**Senator O'BRIEN**—Is there a breakdown by agency for their contributions?

**Ms Hawgood**—Yes.

**Senator O'BRIEN**—Perhaps you can supply that on notice.

**Ms Hawgood**—I can, or I can take you through it now.

**Senator O'BRIEN**—That is fine.

**Ms Hawgood**—From ATSYS in 2003-04 there is \$1 million, and the same amount in 2004-05; from FaCS, \$500,000 in each year; from DEWR, \$500,000 in each year; from DoTaRS, \$100,000 in each year; from DEST, \$400,000 in each year; and from Health, \$500,000 in each year.

**Senator O'BRIEN**—How much of this year's pool has been expended?

**Ms Hawgood**—A total of \$1.4 million has been committed. Of that, approximately half a million has been expended and the rest is currently under contract negotiations.

**Senator O'BRIEN**—The rest of the \$1.4 million or the rest of the pool?

**Ms Hawgood**—The rest of the \$1.4 million.

**Senator O'BRIEN**—Are you expecting the balance of this year's pool to be expended this year?

**Ms Hawgood**—Yes. There are a number of proposals in the pipeline.

**Senator O'BRIEN**—Can you give us examples of what the money has been expended on this year?

**Ms Hawgood**—The flexible funding pool was primarily intended to do two things: to model whole-of-government joined-up initiatives and to provide enabling support for community people involved in the trials. Particularly in the more remote communities like the East Kimberley and Wadeye but also in western New South Wales, some of the money has been spent on supporting public meetings, community consultations and workshops that are about effective participation of people in the trial processes.

In Wadeye an amount of money has also been provided to support a local construction industry, partly in the provision of some infrastructure to build a precast factory which will provide workshop space for local people who will be learning skills in the construction industry. It will also provide some money for staffing, for teachers et cetera.

There has also been some money supporting Cape York Partnerships, which is an Indigenous organisation in Cape York. The Commonwealth provided matching funding of \$350,000 with the Queensland government to support the organisation in its work, which is focused primarily on things like substance abuse, innovative education initiatives that are primarily about keeping kids in school and things like money management. They are just some examples.

**Senator CROSSIN**—On the projects for Wadeye, are you talking about money to actually build a workshop?

**Ms Hawgood**—Yes.

**Senator CROSSIN**—Not the one that has already been built there that is operating for adolescent boys?

**Ms Hawgood**—As I understand it, some of the money will go to maintenance of existing buildings but there is also to be a new purpose-built building for the construction industry training.

**Senator CROSSIN**—Who is going to be responsible for building that? Will it go to tender?

**Ms Hawgood**—I presume so. I would have to check that. It has not gone out to tender yet.

**Senator CROSSIN**—What do you mean by money for teachers? Do you mean that you will be providing a certain amount of money to the Catholic education system in the Northern Territory for that?

**Ms Hawgood**—No, these are trainers and people who will staff the workshops for the construction industry project, not schoolteachers.

**Senator CROSSIN**—Will that be tendered to a private provider or to the university in the Territory? How will that be allocated?

**Ms Hawgood**—That is currently being worked out through the tripartite committee in the Northern Territory. That consists of representatives from the Thamarrurr, the governing council in Wadeye, and representatives from the Commonwealth and state governments.

**Senator O'BRIEN**—Ms Hawgood, in November you said that the spin-off from the COAG trials was better cooperation on Indigenous affairs between governments inside and outside the COAG trials. It may be too early, but perhaps you can give me some examples of how this improved cooperation has benefited an Indigenous community outside a COAG trial site.

**Ms Hawgood**—I am not sure that I heard you properly. Did you ask how it has benefited a community outside a COAG trial site?

**Senator O'BRIEN**—Yes.

**Ms Hawgood**—It is a little bit early in the process to be able to identify a community outside the trial site that has benefited. Currently there are a number of initiatives going on within the trial sites that we think will provide some lessons about things that can be applied outside the trial sites, but as yet that has not happened.

**Senator O'BRIEN**—The COAG trials were first agreed in April 2002, as I understand it.

**Ms Hawgood**—Yes.

**Senator O'BRIEN**—Funding started from 1 July 2003?

**Ms Hawgood**—Flexible funding, pool funding?

**Senator O'BRIEN**—Yes.

**Ms Hawgood**—Yes.

**Senator O'BRIEN**—I am sure you are aware of the story by Paul Toohey in last week's *Bulletin* that painted a disturbing picture of life in Wadeye in the Northern Territory. That was the first announced COAG trial site and I think the site of the first shared responsibility agreement. The *Bulletin* article did not give us much in the way of a pinprick of light in that trial. Perhaps you might care to comment. Do you think the *Bulletin* accurately portrayed life at this COAG trial site?

**Ms Hawgood**—I think the *Bulletin* article focused too much on the negative and not on the positives. Theadora Narndu, who is an important leader from Wadeye, came to Canberra recently with some of her colleagues to meet with secretaries and ministers. She commented that, because of the COAG trial, 'the door had opened wide' for them—the door that never opened before for Aboriginal people to give them a voice. The Wadeye community leaders are determined to tackle their issues. They have identified—this was part of the shared responsibility agreement—the need to give every kid a chance and get local jobs for local people as first-order priorities. Progress is already being made.

I can tell you some of the things that are already happening—some of the positives that were not in the Toohey article. Already there are more children attending school; local people hold senior positions in the school; a new swimming pool has been completed; local people are training as lifeguards. The people are so committed to increasing school attendance that they have made a rule that skipping school means they get no pool, and they are sticking to that. Job opportunities, we are sure, will come with the increased emphasis on training and jobs in the construction industry and the 'local people for local jobs' plan. And families in Wadeye have been working with the women's group in relation to family violence and other

issues. People know that there is still a long way to go, but the story is not all negative as painted in the article. There are some more positives already happening.

**Senator CROSSIN**—How many jobs for Indigenous people have been created since the Wadeye trials started?

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

**Senator O'BRIEN**—Have shared responsibility agreements now been signed at all trial sites?

**Ms Hawgood**—Not in all of them. Regional agreements have been signed in Murdi Paaki, Shepparton and Wadeye. There are also regional agreements that are nearing finalisation in the AP lands, in the ACT and in the East Kimberley sites. There is also a regional agreement progressing in Cape York. In Cape York there have been two community level shared responsibility agreements almost completed. They have been signed between the government partners and the community partners but action lists are still being finalised. And work is now starting in a number of sites—one example is the East Kimberley site—on some small shared responsibility agreements with individual communities and family members around some very tangible but small things, an example being a shared responsibility agreement to support a community to develop its program of activities with children to promote their wellbeing and in turn promote stronger families, which has been a priority in a number of communities. I am happy to table the shared responsibility agreements that have been completed.

**Senator O'BRIEN**—Thank you. You talked about a number of outcomes attributable to the Wadeye trial sites. I am happy for you to take this on notice. Is it possible to get a list of the outcomes at each of the trial sites to date?

**Ms Hawgood**—I can do that. I might make a couple of comments if that is okay.

**Senator O'BRIEN**—Sure.

**Ms Hawgood**—It is early days. There are a number of outcomes that are common across the sites that people would like to see. They go to things like more kids in school, fewer people presenting at clinics with traumatic injuries, more local people in local jobs, stronger families and less alcohol consumption. Those sorts of things are coming up commonly across all of the sites. But people are looking at those things in slightly different ways and looking for slightly different ways to address them. In relation to outcomes, I do not think that we are yet at the point where we can talk about having achieved final long-term outcomes in any of the sites. We are at the stage of particular steps along the way that enable all the partners to learn as we go. There are some things that are being done in the trial sites that are steps towards the kinds of outcomes that the communities are identifying as things they want, and governments are saying, 'Yes, we support that outcome.' For instance, the trial generally has meant that in Cape York both the Australian and Queensland governments have been able to come in behind and support a number of key regional strategies developed by Cape York leaders—things such as the Cape York Institute for Policy and Leadership and the Weipa multipurpose facility. All of them are still in early stages of implementation, but they are all being implemented by all the partners, so the two governments and the community partners are all involved in the implementation. They are all aimed at supporting long-term solutions that are about tackling issues that have been identified by the community leaders around

things like substance abuse, education and economic development. Also in Cape York, I mentioned the flexible funding pool that supported the Cape York partnerships work in those areas.

In Wadeye—and I have mentioned a couple of things about Wadeye—some critical steps along the way are that the governments—both governments—have supported the Thamarrurr, which is a new governance arrangement that the community has developed, and set up a tripartite committee that has Thamarrurr representatives, Northern Territory representatives and Commonwealth representatives on it. That really has become not just the consultation body but the decision making body for things that are happening at Wadeye under the shared responsibility agreement. That is the first time that that community and government have related in that way. I have mentioned the construction industry work there.

In the East Kimberley, again the flexible funding pool has supported a partnership between all levels of government and the communities in the East Kimberley. State government, Commonwealth government, the Halls Creek shire and the five communities in the East Kimberley region are all working together. They have set up what they are calling a regional reference group, which has leaders from each of the communities in the East Kimberley and the three levels of government at the table working through the priorities that are being identified by the East Kimberley communities. Again, that is a first in that particular region where all levels of government and the community leaders have come together.

**Senator O'BRIEN**—Thanks for that and I look forward to the other information such as you can provide. How many of the 1,000 additional CDEP places announced as part of the COAG trials have been allocated? I understand that it was 550 in November.

**Mr Gibbons**—I understand that it is a little over 800, but I might ask Adrienne Gillam if she can give you a bit more detail on that.

**Ms Gillam**—We have allocated about 800 of those places and we have done that by way of contracting, so we have been trialling contracting arrangements. We have required those projects to have joined approaches with state government and family violence initiatives. It has been a little slower take-up than we expected, but because it is a new initiative, and for many CDEPs it is a new function that they have taken on, they have wanted workers to have training and set up things like that before they have actually put them on. Each project has been fairly conservative and taken on quite small numbers to commence with. So it has taken a while to get up to the 800.

**Senator O'BRIEN**—What is the life of this additional funding?

**Ms Gillam**—It is four years of funding. I think we answered that one at the last hearings.

**Senator O'BRIEN**—Four years from the take-up or four years from—

**Ms Gillam**—All up, the project is funded for four years.

**Senator O'BRIEN**—What I am keen to find out is, if there has been slow take-up, whether part of the funding will be rolled forward so that there is four years for each of the projects.

**Ms Gillam**—Yes. We have applied for rephasing so that it will not be a stop-start project. They have been told at the outset that it is a four-year project.

**Senator O'BRIEN**—So you have applied for rephasing and that application has been approved?

**Ms Gillam**—Yes, we have enough funding that has already been approved under rephasing to continue it.

**Senator O'BRIEN**—Can you give us a breakdown of allocation by trial site?

**Ms Gillam**—I would have to take it on notice. We could provide that. We could provide a breakdown of where each of the 800 places has been directed.

**Senator O'BRIEN**—And can you give us a breakdown on the projects as well?

**Ms Gillam**—Yes, because they have all come in with detailed proposals.

**Senator CROSSIN**—Can I just clarify something? Were the 800 additional CDEP places going only to the COAG trial sites?

**Ms Gillam**—No. The criteria required that they be directed to remote areas where there were domestic violence problems and substance abuse problems. So no, they are not confined to COAG trial sites at all.

**Senator CROSSIN**—Can you give me an idea of what sort of activities these CDEP places would be undertaking?

**Ms Gillam**—They are confined to the criteria of the program, which said that they needed to be targeted to domestic violence, substance abuse and family dysfunctional projects. They had to be linked to other initiatives on a larger scale, so they needed to link in with existing services being provided in the community. In the breakdown of projects, we could give a short explanation of the nature of each one. The average is an allocation of 20 per CDEP provider, and there are 240 providers. There are small numbers at each one, so there would be a large range of projects.

**Senator CROSSIN**—Are we looking at people who mainly get involved in, say, working in a women's refuge if there is one in a community or working on night patrol? What sort of activities would they mainly undertake?

**Ms Gillam**—There is a huge range of activities. We invited people to be innovative and have new initiatives. Mostly they are completely new initiatives that the CDEP has become involved in. There are shelters, night patrols, petrol sniffing programs, substance abuse rehab and prevention, cultural maintenance and preservation programs such as language and diversionary activities to try to get people back to country and cattle projects. There is a really wide range of diversionary things that they have become involved in.

**Senator CROSSIN**—So you will provide us with a breakdown of that?

**Ms Gillam**—Yes, I can.

**Senator CROSSIN**—What is the total cost of the 1,000 additional CDEP places each year?

**Ms Gillam**—I think I provided that last time. I would have to take it on notice to provide it again. I am sure that we received an allocation for wages, and we met the on-costs from the existing allocation. I would have to look that figure up. It is not at the top of my head.

**Senator CROSSIN**—We will check as well.

**Ms Gillam**—I am sure I provided it last time.

**Senator O'BRIEN**—In November, Senator Crossin asked questions about Indigenous organisations that had applied to ATSIC for funding but had had to reapply upon the division of ATSIC and ATSSIS. ATSSIS took the matter on notice and provided an answer that I want to clarify today. ATSSIS said it does not believe any Indigenous organisations were promised funding by ATSIC under the Business Development Program and forced to reapply after 1 July 2003. Does that mean that no Indigenous organisations complained about promises not kept or that no in-principle approval had been given to applications lodged but not finalised before 1 July 2003?

**Mr Gibbons**—I might ask Mr Stacey to supplement what I will say, but my understanding is that at the time of the announcement of the changes there were no situations where we promised funding that did not eventuate. There were certainly circumstances where people had made applications for funding under a set of criteria that existed before ATSSIS was created, and they needed to revise their application to take account of the criteria that were being administered by ATSSIS, but I do not believe that where we had actually committed to funding we did not proceed with it. Mr Stacey, do you want to add to that?

**Mr Stacey**—No, I think that is the situation. I am not aware of any complaints by anybody saying that they were promised funding under the Business Development Program and then told that, because of the creation of ATSSIS that promise was not going to be kept. It was the case that a number of applications for that program were being considered. They had been lodged and were being considered at the time when ATSSIS was established, but no decisions had been made on those applications. That is, no promises had been given. Those applicants were told before 30 June 2003 that ATSSIS had been created and were asked whether they were prepared to assign their applications to ATSSIS for it to continue with the assessment process on the basis that ATSSIS now administered the Business Development Program and would make a call about whether or not to fund them.

**Senator O'BRIEN**—How many applied to have their application assigned?

**Mr Stacey**—Excuse me?

**Senator O'BRIEN**—How many applicants asked for their applications to ATSIC to be assigned to ATSSIS?

**Mr Stacey**—I would have to take that on notice; I do not know the answer. But I am not aware that any said that they were not prepared to have the application assigned to ATSSIS.

**Senator O'BRIEN**—The question is: how many were?

**Mr Stacey**—I would have to take that on notice.

**Senator O'BRIEN**—Thank you. Senator Crossin raised the matter of Mee Wee. Mr Stacey, I think you answered some questions in relation to that on 4 November. How has that matter been resolved?

**Mr Stacey**—ATSSIS met representatives from Mee Wee and we have indeed reached a resolution in relation to that issue. In December 2003, we provided Mee Wee with a grant of

\$33,000 and a commercial loan of \$34,000 to acquire a business trading entity. It is known as Adelaide Custom Leadlight Design. In addition, we have committed ourselves to providing ongoing support in the form of legal advice and business facilitation—to give that project the best possible chance of being commercially viable. At this stage, I am not aware that there is any issue. Things are progressing well.

**Senator O'BRIEN**—Good. When announcing the division of ATSIC and AT SIS on 17 April last year Mr Ruddock said the arrangement would be 'interim in nature and allow for refinement in the light of the wider ATSIC review'. Mr Gibbons, you are probably the best one to answer this: how has the interim nature of the arrangement impacted on the operation of ATSIC and AT SIS?

**Mr Gibbons**—I suppose you could answer that referring to a number of issues. The first is financial: I do not believe it has affected the overall cost of the operation—I think we have managed to run things so that the cost of running the arrangements as we do is neutral. There have been some teething problems. It was done with short notice. There were huge changes made to financial systems. There was a culture change needed on the part of administration staff who had been used to following directions from regional councils, the members of the elected arm, about funding arrangements. Conversely, there were culture changes on the members of the elected arm in coming to terms with a separation of powers. Overall, I think that has gone as well as could be expected. I believe that the services that are provided this year were not disrupted as a consequence of the change. That is not to say some organisations may not believe their services were affected, but I think you will find that, when you drill into that, that was for other reasons. Reasons of their failure to comply with conditions et cetera were the cause of disruption rather than the changes brought about by the separation of powers.

It is an interim arrangement. It was not designed for the long term; it was designed until government makes a decision on the future of the ATSIC review. I think the arrangements can work until that occurs. The issue of conflict of interest has been raised from time to time, particularly by one or two members of the elected arm. I do not believe that there is any serious or inherent conflict in the role in the context of an interim arrangement, particularly as the split involves ATSIC with a policy development role and the administration of AT SIS with a spending role, and there are mechanisms built into the agreement for resolving any issues. But I do not believe at this stage any serious conflicts have arisen as a consequence of the arrangements.

**Senator O'BRIEN**—What is the formal process for government consulting ATSIC on policy now?

**Mr Gibbons**—AT SIS officers support the policy development role of both the board of commissioners and regional councils. At the board of commissioners level we support the operation of their committees, we do research, we produce papers for them, we assist in the examination of the issues and when they make their policy positions we document the position for them, in exactly the same way as was done by ATSIC officers in the earlier times. At the regional council level we assist them with the planning process. In fact I think we have put more effort into assisting regional councils to bring their planning to a higher level of usefulness than it has been in the past, than was done in ATSIC.

**Senator O'BRIEN**—What is the process for consultation with ATSIC about national Indigenous legislation?

**Mr Gibbons**—To the extent that agencies that are proposing legislation that is relevant to Indigenous people consult with ATSIC, we provide assistance to the commission in understanding the intent of the legislation and with legal advice. If they wish to propose changes or put views to those agencies, we help with the research and drafting of that. In the Indigenous affairs portfolio including OATSIA, it is much the same.

**Senator O'BRIEN**—On how many occasions in the last 12 months has the government consulted ATSIC about legislation relevant to Indigenous Australians?

**Mr Vaughan**—The Aboriginal Councils and Associations Act is probably the main one—there are two, I suppose, with the Aboriginal Land Rights Act. The elected arm of ATSIC has expressed views on proposed changes on a number of occasions and communicated them very clearly to government. In respect of the proposed changes and review of the Aboriginal Councils and Associations Act, there was, for instance, an ATSIC commissioner on the steering committee for that review. I believe the ATSIC board was briefed at meetings about both of those issues. So there has been quite a substantial degree of engagement with the elected arm in respect of those two major pieces of proposed legislative change. Of course, since then the minister has met with the ATSIC board and with the regional council chairs this week with regard to the ATSIC review report, and a couple of months ago the ATSIC board submitted to the government its response to the review. That was done on 5 December.

**Senator O'BRIEN**—The reason I asked was that my office was briefed on a piece of land rights legislation, and when the Attorney-General's Department were asked whether ATSIC had been consulted, they said, 'No. Why?' So it is not a matter of government policy to consult ATSIC on legislation that affects Indigenous Australians generally? Perhaps you would like to take that on notice. It just surprised me that that would be the response from Attorney-General's. It is only about extending the operation of the joint committee on native title, but it is legislation that impacts on an issue that is very close to the hearts of Indigenous Australians.

**Senator Vanstone**—Was that in an estimates committee?

**Senator O'BRIEN**—No, it is a piece of legislation that the government wants to introduce tomorrow.

**Senator Vanstone**—But where was the response given to you?

**Senator O'BRIEN**—It was not in an estimates committee; the matter was raised with my office by the Attorney-General's office.

**Mr Vaughan**—I understand that ATSIC had been consulted earlier in the process on that. It was, as I think you are aware, a minor change to the Native Title Act concerning the role and scope of the standing committee established under the act. My information was that ATSIC were consulted earlier in the process. It may have been that later in the process some of those people involved did not realise what had happened earlier in the process, but I understand they were consulted.

**Senator O'BRIEN**—I say that because that was the message brought to me by my staffer as to the response by the Attorney-General's staff to the question of whether they had been consulted.

**Mr Gibbons**—Can I just add that, from time to time, the ministers meet with the chair or with the various policy committees. In fact I think next week or the week following there are some scheduled meetings with Minister Ruddock and, I think, Minister Ian Campbell.

**Senator Vanstone**—And me!

**Mr Gibbons**—They frequently meet with Minister Vanstone of course.

**Senator O'BRIEN**—I expect so. On the question of the ATISIC review, what is the final cost of the review? The figure of \$723,989.51 was contained in an answer to L and C question on notice No. 22, which was subject to revision pending the receipt of further invoices.

**Mr Watson**—Total costs at the moment are \$759,609 which is the \$611,156 identified for 2002-03 in the answer we provided on notice. For 2003-04 it is now \$148,452. That is not the final cost. We understand that there are still some costs to be invoiced to us from the department of immigration, for \$245,523, which would bring the total costs up to just over \$1 million.

**Senator O'BRIEN**—So the department of immigration is going to bill ATISIS for \$245,000?

**Mr Watson**—That is correct.

**Senator O'BRIEN**—What for?

**Mr Watson**—For residual consultancy and travel related costs, as I understand it.

**Senator O'BRIEN**—Does residual consultancy mean that there are additional costs for the members of the review panel?

**Mr Watson**—There are additional costs, but Mr Vaughan might be able to answer that.

**Mr Vaughan**—The consultancy costs of the individual review panel members were borne in the first instance by DIMIA, under an arrangement whereby we would recover those costs from ATISIS, because ATISIS was bearing the overall costs. So we would receive claims from the three review panel members—as to their invoices from them; we would pay those invoices; and then we would recoup the money from ATISIS. As Mr Watson said, some of that recovery is still in the pipeline.

**Senator O'BRIEN**—So what is the breakdown of the \$245,000? This committee was given some figures as to amounts paid to Messrs Hannaford, Collins and Huggins. Are these amounts in addition to those amounts?

**Mr Vaughan**—What I can give you are the total amounts of payments to Mr Hannaford, Ms Huggins and Mr Collins. We gave some figures as at the last Senate committee hearings. The current figures—and these are fairly final—are \$269,275 for Mr Hannaford, \$115,500 for Ms Huggins and \$81,000 for Mr Collins. The \$245,000 mentioned by Mr Watson would represent, obviously, some of those payments. Others would have previously been recouped.

**Senator O'BRIEN**—So, while the additional amounts you have quoted for Messrs Hannaford, Huggins and Collins amount to about \$107,500, should I understand that to be a component of the \$245,000?

**Mr Vaughan**—The \$245,000 would be a subcomponent of the total of those three figures I just gave you, plus also some of their travel expenses. The invoicing or the recovery from the department to AT SIS was done periodically, and this \$245,000 is effectively the last tranche in that recovery process.

**Senator CROSSIN**—Can I just clarify then, Mr Vaughan, whether the total amount that was paid to the three people involved in the review included any administrative travel costs, airfares or travel allowance, or is travel a component over and above what they were paid as individuals?

**Mr Vaughan**—Travel is a component over and above what their per diem consultancy payments were.

**Senator CROSSIN**—How much is that for all of them?

**Mr Vaughan**—For travel?

**Senator CROSSIN**—How much was the travel component for the review?

**Mr Vaughan**—I do not have the total expenditure on travel with me at the moment. The figures I gave you were their consultancy fees for the exercise.

**Senator CROSSIN**—Can you take that on notice please?

**Mr Vaughan**—Yes, I can do that.

**Senator Vanstone**—I am not wishing to interrupt but I am just wondering if Senator Crossin has people ask her, as I have people ask me, 'On top of your salary does the government pay for your travel?' which in your case, mine, I think Senator O'Brien's and probably everyone's here is just a joke because my travel would, I assume, exceed the cost of my salary.

**Senator CROSSIN**—We understand that. We are just trying to get a handle on the total cost of the review and a breakdown of costs within the review.

**Senator Vanstone**—I am just genuinely raising the point that people often ask that sort of thing.

**Mr Vaughan**—The total costs of the review are really reflected in the figures which Mr Watson gave, which total up—

**Senator O'BRIEN**—Just over \$1 million.

**Mr Vaughan**—Yes.

**Senator O'BRIEN**—Is AT SIS to be billed or has it been billed for all of that?

**Mr Watson**—The \$245,000, which Mr Vaughan referred to, has not yet been billed, but we understand that it is about to be billed. Could I also just say that in the answer to question 90, which was a previous question on notice, we did provide a breakdown of the major components of that expenditure, including travel, for both financial years. Obviously if there

is an additional travel component contained within the \$245,000 those figures would need to be adjusted.

**Senator CROSSIN**—That is what I am asking for, an update on those figures.

**Mr Watson**—We will update the answer to question 90 to take into account the \$245,000 once we have it to hand.

**Mr Vaughan**—I should add that the costs of the three members of the review panel and their travel do not represent the totality of the costs of the review. There was secretariat and services support and those sorts of things.

**Senator O'BRIEN**—We have that broken down in the answer that we have in front of us. If that could be updated that would be useful. In terms of the travel figure, is that the cost of travel plus the cost of accommodation?

**Mr Watson**—If the cost of accommodation is not separately identified, then it would be part of that.

**Senator O'BRIEN**—No, it is not. Can you break that down for us too please?

**Mr Watson**—Between travel and—

**Senator O'BRIEN**—Accommodation.

**Mr Watson**—We could possibly break it down between travel and travelling allowance, not necessarily accommodation.

**Senator O'BRIEN**—That is fine.

**Mr Watson**—Providing that information is stored within the finance system.

**Senator O'BRIEN**—Can you break it down between members of the panel?

**Mr Watson**—We should be able to do that.

**Senator O'BRIEN**—There was no review chair, was there?

**Mr Vaughan**—There is no formal chair but Mr Hannaford functioned as primus inter pares or a convenor of the group.

**Senator O'BRIEN**—What was the first one?

**Mr Vaughan**—It is first among equals.

**Senator O'BRIEN**—Sorry, my Latin is not up to speed. He functioned as that. Was he elected, was that his choice or was it a natural pecking order?

**Mr Vaughan**—It appeared to be an arrangement which the panel came to among themselves.

**Senator O'BRIEN**—Is that what Mr Hannaford told you?

**Mr Vaughan**—No, that was the impression I had from their operations.

**Senator CROSSIN**—Did he get paid more because of your impression, Mr Vaughan?

**Mr Vaughan**—I think I indicated at the last hearings that he was paid a different rate, yes.

**Senator O'BRIEN**—Is the payment a reflection of billing by the members of the review panel at some agreed rate?

**Mr Vaughan**—Yes. The consultancy contracts with them provided an agreed cost per day, which they could bill out. So the total cost was a function of that per day rate multiplied by the number of days that they contributed to the task. Different members were involved for different numbers of days. That drove a lot of the differential costs between the three of them.

**Senator O'BRIEN**—Was there a differential rate between the individual members?

**Mr Vaughan**—I beg your pardon?

**Senator O'BRIEN**—Were the individual members of the panel paid a differential per diem?

**Mr Vaughan**—Yes. There were some differences between the per diem rates for the three of them.

**Senator O'BRIEN**—Could you tell us what they were?

**Mr Vaughan**—I know there are new rules applying to commercial in confidence. Could I take that on notice?

**Senator O'BRIEN**—Yes. Can you tell us how many days were billed?

**Mr Vaughan**—Yes.

**Senator O'BRIEN**—Thank you.

**Senator CROSSIN**—Do you have that information with you or do you need to take it on notice?

**Mr Vaughan**—No, I do not have that information about the number of days with me.

**Senator O'BRIEN**—The review outcomes are obviously going to—or I would have thought would—be an important influence on the government thinking about the future of ATSiC. In relation to the purchase of the PinPlan—the so-called methodology that underpinned the consultation with review stakeholders—the committee has been advised that \$26,282.80 was paid to a company called Impart Skills. Is that the up-to-date figure?

**Mr Vaughan**—You may be referring to the purchase of the materials that related to the PinPlan process. Or are you referring to some training that was provided to members of the review team and the secretariat in relation to the PinPlan process?

**Senator O'BRIEN**—The answer says that the amount paid to Impart Skills for 'PinPlan Methodology' was \$26,282.80. In that 'methodology' starts with a capital letter. I do not know if that means something other than what it appears to mean, but perhaps you can help me.

**Mr Watson**—I can confirm that that is the amount of money as identified in the answer to question 92. In terms of what specifically was part of the PinPlan methodology, I cannot answer that part of it.

**Senator O'BRIEN**—Someone must know. You paid the bill.

**Mr Watson**—Remembering that when the review started it was ATSiC and not ATSiS paying the bills, there was an arrangement whereby officers on the review team would

purchase requirements for the review team to operate. ATSIC would meet those costs on the proviso that a duly authorised public official on the review team agreed that those purchases should be made. When the invoices were presented to ATSIC they were duly authorised as goods received and services having been delivered.

**Senator O'BRIEN**—So they were authorised as goods received?

**Mr Watson**—Goods received and services having been delivered. I have just been provided with some information which breaks down that \$26,282. I can run through it for you. There was an amount of \$20,625, which related to moderation training and equipment; an amount of \$3,028, which related to moderation coaching; and an amount of \$467 for purchasing cards stationery. In fact, there were two other purchases for the same 'purchasing cards stationery' of \$375 and \$619—I am rounding these up to whole dollars—which brings it to a total of \$25,114. Then there were some additional costs. There were repairs to some carry bags of \$88, and the supply of three new heavy-duty carry bags of \$1,080, which brought the total expenditure to \$26,282.80.

**Senator O'BRIEN**—Who ended up with the three new heavy-duty bags that were bought?

**Mr Watson**—The equipment is held by ATSSIS. Once the review team no longer required it ATSSIS took possession of the PinPlan hardware.

**Senator O'BRIEN**—Are they good heavy-duty bags that were bought for \$1,000?

**Mr Gibbons**—I do not believe I have seen them. I think they were designed to carry the foldaway equipment.

**Senator CROSSIN**—I take it that Mr Hannaford was not happy to brainstorm ideas on butcher's paper?

**Mr Watson**—I cannot answer that question. I have no knowledge of that.

**Senator O'BRIEN**—When you said that there was no PinPlan product, just a methodology, that was not quite right. You told us that in November.

**Mr Gibbons**—I think it was a licence to use a methodology. At the time I thought that that was all it was and that the equipment and stationery came independently, but I was wrong on that.

**Senator CROSSIN**—Were you thoroughly consulted about the purchase of the PinPlan and what it entailed before it happened?

**Mr Gibbons**—Remember that this is an independent review of ATSIC. We were involved because we were the source of the funds. We certainly were not involved in directing the review—what it could do, what it couldn't do and how it went about its business. We were at arm's length from that process. We paid the bills, effectively.

**Senator O'BRIEN**—According to the PinPlan web site, particular stationery supplies are part of the PinPlan method, including specially developed pin boards, cards, speech balloons, marker and stickers. I understand these special products were used as part of the review. The web site prices cloud cut-outs were at \$240.90, stickers were at \$174.90 and a marker packet was at \$218.90. We have been given a breakdown of the cost of the plan and some of the items purchased. According to an answer provided on notice to a question Senator Crossin

asked, services valued at above \$100,000 require a public tender. That answer refers to ATSC and ATSSIS procurement guidelines dated November 2002, which is before ATSSIS existed. The only guidelines available dated 2001 note that public tenders are required for the purchase of all goods and services valued above \$30,000. Can we be supplied with a copy of the November 2002 guidelines?

**Mr Gibbons**—Yes, we can provide a copy of that.

**Mr Watson**—When the review team was set up, officers from ATSC had a discussion with the review team, and the public servants assigned to the review team, about our purchasing requirements. It was made very clear to them what our guidelines were for purchasing and purchasing thresholds. The public servants associated with the review team were aware of the Commonwealth's procurement guidelines. The nature of this purchase in any case, whether it was a \$30,000 or \$100,000 limit, is less than the tender threshold. There was a decision by the review team, by the officers on the review team, to purchase this equipment on the basis, one assumes, of value for money and the appropriateness for the review team's operations. It was on that basis that the information came through to us that they were purchasing this and that they had in fact received the equipment. We duly paid the bills.

**Senator CROSSIN**—Was anyone asked or required to make an assessment of how culturally appropriate this methodology might be?

**Mr Vaughan**—It is difficult for us to answer that question, except that I would imagine that one or two members of the three-person review panel would have been conscious of that.

**Senator CROSSIN**—I am sure more than one person on the review panel was particularly conscious of that, but was anyone who was actually writing the cheques and responsible for the review actually asked for, and did they give, any advice about the appropriateness of this methodology, considering their clients were going to be Indigenous people?

**Mr Gibbons**—We were not on the review. We were not responsible for the review.

**Senator CROSSIN**—You have already said you were consulted about the purchase of the PinPlan and you just thought it was a methodology. In that consultation did you ask anyone about the appropriateness of it or the cultural relativity of it?

**Mr Gibbons**—My reference to that was after the event—some time after the event—when it was first raised in this committee, I believe.

**Mr Vaughan**—I think it would have been a judgment to be made by the secretariat and members of the review panel in electing to employ this particular methodology for part of their operations.

**Senator CROSSIN**—Do you feel convinced that all of the members of the review panel understood exactly what was involved in this methodology before they saw it for the first time live and in action?

**Mr Gibbons**—That, with respect, was an issue for the review. If I had attempted to influence the review and how it went about its business, I am sure there would have been loud protests.

**Senator CROSSIN**—There is no suggestion about influencing the outcome of the review. Was there no concern on behalf of your office about the appropriateness under which that review was going to be conducted? Did you not sit down and talk about that and the method and ask to see the appropriateness of the methodology, given that it was going to be used on Indigenous people? Otherwise, did you not think it was your concern? Did you not bother about it? Did you not care about that?

**Mr Gibbons**—This review was conducted at arm's length from ATSIC. It was not a matter that they sat down and consulted us about. We became involved because government directed that ATSIC funds would be used to pay for the cost of the review.

**Senator O'BRIEN**—So it is the minister's decision that we should be querying?

**Mr Vaughan**—I think that the government, having appointed the members of the review panel and the head of the secretariat, Dr Hawke, then had confidence in the three or four of them to make those sorts of decisions without looking over their shoulder or cross-checking those sorts of decisions. As Mr Gibbons indicated, it would be inherently problematic for ATSI, as the subject of the review, to be seen to be influencing or vetoing the methodology adopted by the review panel.

**Senator O'BRIEN**—Isn't this a classic case? A decision is made to conduct a review, the costs are imposed on someone who does not make that decision and the person who makes the decision to commence the review makes no attempt to contain the costs which that person is imposing on another organisation. That is what happened, isn't it?

**Mr Vaughan**—I think there was an intermediary there, or a third player, if you like—the public officials who were on the secretariat, who were authorising the payments and who were also aware of the budget provision that had been made at the outset. That budget provision was not locked in concrete. We did not know what course the review would end up taking, but the figures quoted by Mr Watson of expenditure to date are in fact quite similar to the original budget estimate, which we gave the committee.

**Senator O'BRIEN**—There is one associated matter, Mr Gibbons, that you might clarify for us. Why did the ATSIC \$30,000 threshold for public tender go to \$100,000 following the creation of ATSI?

**Mr Gibbons**—I do not know the answer to that. I would have to take that on notice.

**Mr Watson**—The timing was not associated with the creation of ATSI. In fact, the tender threshold changed in, I think, November 2002. ATSI was created in July 2003. It is not inconsistent with other agencies. In fact, the agency I was last at—Education, Science and Training—changed its tender threshold around the same time. Much of this is to do with the cost of tenders and the acknowledgment that thresholds such as \$30,000 have been in place for quite a number of years and that, with the general costs of procuring such services, \$100,000 was seen as appropriate.

**Senator O'BRIEN**—When did the \$100,000 take effect?

**Mr Watson**—The \$100,000 took effect, to my knowledge, on or about November 2002.

**Senator O'BRIEN**—I am sorry; I was confused because it says 'ATSIC-ATSI'. I apologise if my question confused you; I did not intend it to. In terms of the PinPlan

methodology, did any participants in the consultations express concern about the efficacy of that method?

**Mr Gibbons**—I am not aware of any complaints that were received by AT SIS. I know of the consultation with the AT SIC board of commissioners, and each regional council used the methodology certainly once. There were several rounds but I think the first round involved this methodology. I did not hear of any complaints as a result of that. A number of counsellors said to me that, if you were across the issues, it was probably too simplistic a methodology but, if you were not across the issues, it was quite good. There were mixed views, but I certainly had no complaints about it.

**Senator CROSSIN**—You did not hear any complaints at all about it through the review process?

**Mr Gibbons**—When you say ‘a complaint’, do you mean somebody formally complaining to me or somebody saying, ‘I don’t think this was—

**Senator O’BRIEN**—Or something stronger.

**Senator CROSSIN**—Or people not returning after lunch or people walking out during it because they felt it was so irrelevant. You did not hear any feedback or complaints about that?

**Mr Gibbons**—I did not hear of people walking out because of the methodology. I knew that some people liked it and some people did not, but I was not running the review.

**Senator O’BRIEN**—I guess the question is: to what extent is the government aware of the community’s response to the process and the methodology? It is a methodology that cost \$26,000, and that is the relevance of the questions.

**Mr Vaughan**—If I could add to Mr Gibbons’s comment. I personally sat through two sessions of the methodology of about three hours each and became acquainted with it in that form. It has one obvious strength, which its own promotional activities identify, and that is that it equalises the participants in the process. It is a process that actually prevents any individual or subset of individuals dominating the process. It is very egalitarian in that sense. One of its limitations, of course, is that, if you have a group of people with different degrees of knowledge about the issue being focused on, it does not allow the different levels of knowledge proportionate expression. But it is designed that way.

The other limitation which the panel acknowledged in the course of their review was that it did involve writing on cards or being able to read other people’s writing, and that did not work as well in dealing with groups that were not particularly literate. I have heard that.

**Senator CROSSIN**—That was my point about relevance, Mr Vaughan.

**Mr Vaughan**—I understand that in some cases, when they became conscious that in a particular group that was an issue, they adapted the methodology to that particular group, but it did depend on the particular group concerned.

**Senator O’BRIEN**—According to the PinPlan web site, there are just four certified PinPlan facilitators and just three are residents of Australia, one of them being Mr John Hannaford. Does that mean that, if the review wanted to utilise the PinPlan methodology again, the services of either Mr Hannaford or one of the two other facilitators must be

employed at cost—whether it is the review or whether it is AT SIS or AT SIC? In other words, what is the value of material that has been purchased in the absence of the trained facilitator?

**Mr Gibbons**—I do not know the answer to that. I am speculating, but I think that the terms of the license required that you use accredited individuals for the training.

**Mr Vaughan**—I guess if you or I wanted to use the methodology we would either have to get accredited ourselves or use someone who was already accredited.

**Senator O'BRIEN**—Yes, and there are three people in Australia and one of them is Mr Hannaford. Mr Vaughan, you gave evidence in November that the purchase of the PinPlan product—service, goods, et cetera—was Mr Hannaford's idea but that, to your knowledge, Mr Hannaford had no commercial interest in the product?

**Mr Vaughan**—That is correct.

**Senator O'BRIEN**—Doesn't the fact that he is one of only three certified PinPlan facilitators resident in the country suggest that he had some commercial interest in its use?

**Senator CROSSIN**—Probably quite a bit, actually.

**Mr Vaughan**—Not per se. I can perhaps short-circuit this discussion by giving the committee a copy of a letter from Mr Ruddock to Mr Hannaford raising this question following concerns raised by Mr McMullan and a letter back to Senator Vanstone, as Mr Ruddock's successor, on 10 October outlining his position on this question and asserting that there was no commercial interest at all on his part in the PinPlan product. I am happy to give those to the committee.

**Senator O'BRIEN**—I would be very happy if you would give them to the committee. I wanted to draw your attention to a document published on the PinPlan web site entitled 'PinPlan gives your consultancy the boost you are looking for', which invites individuals to become a certified PinPlan facilitator. It says in part:

As a Certified PinPlan Facilitator, your clients will have the added assurance that comes from working with someone they can trust will deliver, and is reinforced with your name and certificate number published on the PinPlan website.

The document also promotes:

- Enhanced business opportunities through promotion of your consultancy, with direct access to you via 'click-through' contact details on this website.

It is perhaps not coincidental that direct access to Mr Hannaford's consultancy ADR Solutions is available via 'click through contact details' on the PinPlan web site. Do you still maintain that Mr Hannaford has no commercial interest in this product?

**Mr Vaughan**—The fact that two web sites are linked does not necessarily denote a commercial linkage. All I can go on is Mr Hannaford's assurance in the letter I have just tabled that he had no such commercial interests.

**Senator O'BRIEN**—Some might say: he would say so, wouldn't he?

**Senator CROSSIN**—If he had no commercial interest, why was it not included in the cost of the AT SIC review the purchase of a facilitator that was not Mr Hannaford to use the PinPlan? If he had no commercial interest in pushing to have the PinPlan used, why did you

not purchase the PinPlan and pay for another facilitator rather than use Mr Hannaford as a facilitator—seeing as he is one of only three in this country?

**Mr Vaughan**—If I understand what you are suggesting correctly, that would actually involve extra cost.

**Senator CROSSIN**—Correct. But if Mr Hannaford had no commercial interest in pushing the PinPlan methodology then surely they would have come back and built into their cost of the review the fact that someone else would be the facilitator using this plan rather than Mr Hannaford.

**Mr Vaughan**—I think, from where Mr Hannaford stood, he had become acquainted with this product—he had become accredited and familiar in its use. He thought it had particular potential in relation to the review. He put that proposition to the other members of the review team and to the head of the secretariat. They had a look at it and thought that it could add value to the process. The cost, which Mr Watson has mentioned, of purchasing the materials did not go to Mr Hannaford—or, according to him, to any commercial entity in which he had an interest. He was simply an accredited user of that product. I should add that there is one mistake in the letter which I just gave you. He said that he had asked for his name as an accredited facilitator to be removed from the web site and that that had been done. I checked the web site today and found that his name is still there. I spoke to Mr Hannaford, who was unaware of that and intended to have appropriate words with those responsible for the web site.

**Senator CROSSIN**—So how much of the PinPlan product is actually left over? Where is that material that you have purchased?

**Mr Watson**—The material purchased is held within ATSSIS. Again, I have not personally seen what it is and how much of it is there. I only know that, given that it was purchased with ATSSIC monies, once the review team was wound up we made certain that we retained the equipment because it belonged in fact to ATSSIC. We have it in storage.

**Senator O'BRIEN**—Is anyone being trained to use it?

**Mr Watson**—Not to my knowledge.

**Senator O'BRIEN**—I will keep looking at the web site to see if there is any addition to the names.

**Senator CROSSIN**—Mr Vaughan, is this a correct statement: 'The ATSSIC review panel and its secretariat have had no financial dealings with PinPlan.' In fact, when you purchase PinPlan don't you have a financial dealing with them?

**Mr Vaughan**—It meant there was no financial relationship between the two—

**Senator CROSSIN**—That is not what it says.

**CHAIR**—Senator Crossin, could you let Mr Vaughan finish his response.

**Mr Vaughan**—I suppose it depends on your interpretation of the phrase 'no financial dealings'. Obviously, there was a financial transaction between ATSSIC on behalf of the secretariat to purchase a PinPlan product but there was, according to Mr Hannaford, no financial connection between the vendors of the PinPlan product and Mr Hannaford himself.

**Senator CROSSIN**—I suppose you would put to us that it depends on your interpretation of what ‘commercial interests’ means as to whether Mr Hannaford had a commercial interest in this product.

**Mr Vaughan**—He has chosen to articulate it in this way in his letter and people will draw what interpretations they will from it. At the top of page 2 it says, ‘no direct or indirect financial interest’.

**Senator O’BRIEN**—Is it the case that if there is a conflict of interest he is in breach of his contract with the department? I assume the contract is with the department but it may be with someone else. Mr Ruddock’s letter talks about his contract.

**Mr Vaughan**—Anyone being appointed to a position like this is usually asked to give an assurance that they do not have a conflict of interest.

**Senator O’BRIEN**—What is the remedy if there is one?

**Mr Vaughan**—If they declare a conflict of interest a judgment would obviously have to be made about whether it was such a conflict as to allow them to proceed with the appointment. If it became evident subsequently that there was such a conflict which had been concealed then various options would flow from that.

**Senator O’BRIEN**—What are they?

**Mr Vaughan**—If it was early on in the process it might be a case of terminating the arrangement.

**Senator O’BRIEN**—What if it is after the event? Is there any remedy?

**Mr Vaughan**—If it is after the event, leaving aside the financial transaction that has gone between the two parties, the substantive question would be whether it has contaminated the process or compromised the product.

**Senator CROSSIN**—Has your department conducted an investigation into whether the statements contained in this letter are accurate? Or have you just taken Mr Hannaford’s letter at face value?

**Mr Vaughan**—We conducted searches such as we could originally and we could not establish any connection from those searches between the company and Mr Hannaford.

**Senator CROSSIN**—Are you saying you did a company search?

**Mr Vaughan**—Yes.

**Senator CROSSIN**—With all these numerous companies listed in this letter?

**Mr Vaughan**—I would have to check whether it was both companies, the business name or all three.

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

**Mr Vaughan**—Yes, I will check that.

**Senator CROSSIN**—Who conducted that search?

**Mr Vaughan**—I think we did it through ASIC but I would have to check that. That is the normal course to do a company search.

**Senator O'BRIEN**—Mr Gibbons, I have a couple of questions about your role as CEO of both ATSIC and AT SIS. Is your position as a dual CEO unique in the Commonwealth Public Service?

**Mr Gibbons**—It probably is. I know that there are people who head agencies who also serve on committees but I suppose ATSIC has been a unique construct in the Commonwealth and the current arrangement is probably unique.

**Mr Farmer**—There have been a number of occasions where secretaries have held dual appointments. In 2001 I was the portfolio secretary of two portfolios and two departments concurrently. It certainly can, and does, happen.

**Senator O'BRIEN**—Is that normally an ongoing thing rather than an overlap position?

**Mr Farmer**—That was not an overlap. There were two separate departments with the one officer as the secretary of both departments. At the end of that year the two departments were, in effect, merged into one.

**Senator O'BRIEN**—Mr Gibbons, have you experienced any conflicts of interest since taking this dual appointment? If so, how have you managed them?

**Mr Gibbons**—No, I do not believe I have had any conflicts of interest. In that context I am talking about my relationship as the head of an executive agency and my role in servicing a board. There are certainly a number of conflicts with one or two individual members of the elected arm but, in terms of my duty to the board of commissioners, I would say no.

**Senator O'BRIEN**—As CEO for each organisation do you have a contract for each position or a joint contract?

**Mr Gibbons**—It is the same. It mirrors the original arrangements.

**Senator O'BRIEN**—So there is one contract?

**Mr Gibbons**—There is one contract.

**Senator CROSSIN**—Not double the salary unfortunately!

**Mr Gibbons**—Unfortunately!

**Mr Farmer**—There is also a precedent for that.

**Senator CROSSIN**—I am sure there would be.

**Senator O'BRIEN**—Is there the reverse precedent? When does the contract expire?

**Mr Gibbons**—In August.

**Senator O'BRIEN**—On 19 June last year, Mr Ruddock told the House of Representatives that your role in servicing the elected arm was part time and he could see no sense in having a CEO of both AT SIS and ATSIC. What percentage of your time do you spend actively engaged on tasks related to your role as the CEO of ATSIC?

**Mr Gibbons**—My role in servicing ATSIC revolves around the meetings of the board, some of the committees and my engagement from time to time with regional councils. The board meets normally four times a year but, in the context of the current review, there have been a number of extraordinary meetings. I am available full time through that process. At

other times the challenge of running an organisation takes up most of my time and that was the same in ATSIC.

**Senator O'BRIEN**—Could you break it down into percentages?

**Mr Gibbons**—I would want to correct it on notice if I get it wrong but I would guess that less than 10 per cent of my time involves servicing the ATSIC board and involved in ATSIC decision making now. The balance is on administration and decision making under the various statutes.

**Senator O'BRIEN**—As the CEO of ATSSIS you are responsible to the secretary of DIMIA or directly to the minister. As the CEO of ATSIC you are responsible to the board alone. What role do you play on the board's policy committees?

**Mr Gibbons**—I generally do not get involved in the policy committees as such unless they ask for my advice. The policy committees are serviced by group managers pursuant to an agreement that we have with ATSIC. I generally participate in one of the committees, the strategic directions committee, which is really planning and managing the whole operation of the ATSIC committee structure and board meetings. Of course, I participate in the board meetings unless the board determine that they are *in camera*.

**Senator O'BRIEN**—ATSSIS was established as an interim measure subject to the outcome of the ATSIC review. Are any features of its current operation unsustainable in its long term?

**Mr Gibbons**—I think it was made clear at the outset that it was an interim arrangement designed to tide over until the government had taken decisions on the ATSIC review.

**Senator O'BRIEN**—How have ATSIC commissioners and councillors been consulted subsequent to the publication of the ATSIC review and in preparation for the government's response?

**Mr Gibbons**—The review report was made available to them. As a result, the board decided to spend its last meeting reviewing the report and planning a response to it. Out of that session of the board a decision was taken to have a further meeting of the board concurrently with a meeting of chairs of regional councils. In between that there was a workshop. That meeting of the board and regional council chairs took place last week. The chairs met on their own for a day and then they met jointly with the board, and they agreed a position. The board met with the minister at its December meeting. The regional chairs met with the minister at their meeting last week. They determined a negotiating committee made up of the chair and the chair of the regional councils committee, and Commissioner Anderson, the only woman commissioner on the board, together with the facilitator of the meeting between the board and the chairs, Professor Dodson. That group met with the minister last week and have a commitment to meet again this week with her, following a further workshop meeting that they are planning to hold later this week. In summary, I think that covers it.

**Senator O'BRIEN**—What is the timetable for the government's response to the review?

**Mr Gibbons**—I will defer that question to others at the table.

**Senator Vanstone**—There is no set timetable. There is no: 'It must be considered by cabinet on this particular week or that particular week,' but we will be doing it as soon as we can.

**Senator O'BRIEN**—Have you arrived at a recommendation you want to take to cabinet, Minister?

**Senator Vanstone**—I have not, no, and I am having some more consultations in relation to that with representatives of the ATSI board and councillors. I met with them last week and they want to put some further views, and there have been subsequent meetings with my office—not me—since that meeting last week. We would like obviously to legislate in this parliament, so that necessarily means not very far away at all, but I just cannot give you an exact date.

**Senator O'BRIEN**—I had the impression that you might be seeking to pursue legislation in this parliament.

**Senator Vanstone**—That is what we would like to do.

**Senator O'BRIEN**—Yes. How long will the process take from decision to preparation of legislation?

**Senator Vanstone**—Hopefully not very long. In any event, I hope that there are ways to shorten what otherwise might be a longer timetable—if there is a will in parliament—and, once the government has made the decision, that would be by sharing the outline of the decision before the actual legislation itself was available. That is a possibility, for example—to agree on some key points. It is a possibility; it is not necessarily what will happen.

**Senator CROSSIN**—Who is on the negotiating committee on behalf of ATSI?

**Senator O'BRIEN**—Mr Gibbons has just told us.

**Senator CROSSIN**—Sorry, I missed who you said was on the negotiating committee on behalf of ATSI.

**Mr Gibbons**—The acting chairman of the board; Commissioner Anderson, who is the only woman member of the board; Sam Jefferies, who is the Chairman of the Murdi Paaki Regional Council and who chaired the meeting of regional council chairs; and Professor Dodson, who is engaged by the board to facilitate the meeting between the board and the regional council chairs.

**Senator CROSSIN**—Thank you.

**Senator O'BRIEN**—I have some questions about the suspension of Mr Clark. The original suspension by Mr Ruddock on 13 August was rescinded by you, Minister Vanstone, on 22 January. Was the original suspension rendered unsound by Mr Clark's successful appeal against one of the two charges on which he was originally convicted?

**Senator Vanstone**—I tabled a statement in parliament in relation to that and I do not intend to go any further than that statement. To me, that statement says it all; it does not need any further elucidation.

**Senator O'BRIEN**—I am trying to recall the words you used in the statement.

**Senator Vanstone**—Sorry, I am going to have to ask you—

**Senator O'BRIEN**—I am trying to remember the words you used in the statement in relation to the appropriateness of proceeding on the suspension by Mr Ruddock.

**Senator Vanstone**—I do not have that statement with me. Someone here might have it, though. If you want to put a question in relation to it, I might be able to help you. But, as I said, my inclination is to say that the statement to parliament says it. Parliament can pass a resolution if it chooses, in either house, in accordance with—

**Senator O'BRIEN**—No, both houses have to, if they were to overturn it.

**Senator Vanstone**—Yes. If they want to be sure, but one house could create an interesting situation.

**Senator O'BRIEN**—Yes.

**Senator Vanstone**—It would have to be taken into account.

**Senator O'BRIEN**—You said, Minister, you will not proceed with the termination, provided Mr Clark's application for judicial review of his remaining conviction is dealt with expeditiously. Does that mean Mr Clark acting expeditiously or the Supreme Court of Victoria acting expeditiously?

**Senator Vanstone**—Mr Clark has to do everything he can.

**Senator O'BRIEN**—What has the action against Mr Clark cost so far, including the cost of advice to the previous minister, Minister Ruddock, and to you from internal and external sources and the cost of defending Mr Clark's action in the Federal Court?

**Senator Vanstone**—I do not know. Mr Vaughan might have some idea.

**Mr Vaughan**—I do have some figures in relation to that. The legal costs incurred to date by the Commonwealth in respect of Mr Clark come to a total of \$42,698. I have to caution or emphasise, however, that that includes both the costs of defending litigation by Mr Clark in the courts or responding to Mr Clark's litigation and also the costs of internal legal advice relating to the issue. So it is not all court costs or litigation related. But the total of the two to date in terms of actual expenditure, leaving aside any invoices that are still outstanding—and the matter is ongoing so there are obviously continuing bills—is \$42,698 on the part of the Commonwealth.

**Senator O'BRIEN**—Minister, I wrote to you requesting the release of the government's legal advice in relation to the Clark matter. Will the government release that material to this committee?

**Senator Vanstone**—No. I am sorry if you do not have an answer to that effect.

**Senator O'BRIEN**—I have not seen it, if my office has it.

**Senator Vanstone**—Maybe I signed a letter to you and it is just winging its way through.

**Senator O'BRIEN**—Snail mail.

**Senator Vanstone**—No, it is only recently that I have signed it.

**Senator O'BRIEN**—It may be in my office, but I have not really been in my office much in the last couple of days.

**Senator Vanstone**—Don't rush down and check because I can give you the answer: no.

**Senator O'BRIEN**—Not even in relation to the proceedings that have concluded—Mr Ruddock's proceedings?

**Senator Vanstone**—No.

**Senator O'BRIEN**—The suggestion was that the process of the County Court hearing the appeal from the Magistrate's Court automatically overturned both convictions and heard the matters anew. Is that right?

**Senator Vanstone**—I think Mr Vaughan can answer that.

**Mr Vaughan**—The Victorian Criminal Code is written in such a way that if the appeal to the higher court causes the earlier conviction to be rescinded and replaced, that is correct.

**Senator O'BRIEN**—At the start of the proceedings, isn't it?

**Mr Vaughan**—Yes.

**Senator O'BRIEN**—So once Mr Clark's appeal to the County Court commenced, the convictions ceased to exist?

**Mr Vaughan**—The terminology was open to two different legal interpretations as to whether it amounted to an equivalent of having quashed the original conviction or simply suspended it. There was a degree of lawyerly contention about what that particular provision of the Victorian code actually meant.

**Senator O'BRIEN**—Wouldn't that have rendered Mr Ruddock's decision inoperative—in other words, the suspension being based on a conviction that had been quashed or set aside?

**Mr Vaughan**—That would not have rendered it inoperative.

**Senator O'BRIEN**—Why is that?

**Mr Vaughan**—The suspension still applied under the ATSIC Act.

**Senator O'BRIEN**—But the basis for it had ceased to exist, at least under one view.

**Mr Vaughan**—There were differing legal views as to whether the effect of the appeal was to quash the original conviction or merely to put it into suspense.

**Senator O'BRIEN**—I take it that is the reason you could not rely on it anymore. What is the total cost of the forensic audit by the Office of Evaluation and Audit ordered by Mr Ruddock in March last year in relation to the Bidjara group of companies at Charleville?

**Mr Gibbons**—I might ask the Director, Office of Evaluation and Audit to come to the table to answer part of this. I would like to put it in context. You will be aware that last year, following the collapse of one of the companies—Bidjara Motor Corporation—some media reports alleging misuse of moneys, which appeared in the *Courier-Mail*, and information from our program audit raised concerns. So the former minister decided to ask the Director, Office of Evaluation and Audit to conduct a full forensic audit of the Bidjara companies. There were five Bidjara companies. One of them, Bidjara Motor Corporation, had at that point failed. The others were: Bidjara Aboriginal Housing and Land Company, Bidjara Media and Broadcasting Company, Bidjara CDEP Company, and Bidjara and South West Queensland Legal Services. Between them, in the period the audit focused on, they had been in receipt of

\$21½ million, so it is a fairly substantial and serious issue. The audit was conducted by the office, and the director might tell you about the costs of the audit.

**Mr Alfredson**—The cost of that audit was in the vicinity of \$405,536, and it was conducted in two phases. We had phase 1 because of the nature of the operations. We had to undertake a phase with the contractor in terms of looking at the scoping of the audit, and it required a visit to the companies to see what was involved. After that was completed we undertook the second phase, which was an in-depth analysis of the financial accounting transactions. That second phase cost \$369,000. The two phases together gave a total of \$405,536.

**Senator O'BRIEN**—Is it the case that a receiver-manager has been appointed in respect of the Bidjara Aboriginal Housing and Land Company?

**Mr Gibbons**—That is correct.

**Senator O'BRIEN**—Who has been appointed?

**Mr Gibbons**—DUUS.

**Senator O'BRIEN**—Is that the name of the receiver-manager?

**Mr Gibbons**—Yes.

**Senator O'BRIEN**—When was the appointment made? What is its cost to date?

**Mr Gibbons**—He was appointed in September 2003. Initially we hoped that he would be able to do a quick examination of the records of the company, pursuant to our rights under the grant terms and conditions, and advise on the capacity of the company to repay loans that had been made to it for Bidjara Motor Corporation. The company did not cooperate fully with the receiver-manager. The receiver-manager had to take action through the court to examine the directors. That meant that the receiver-manager has remained in place longer than we had expected, and there were legal costs on top of that, making a total of \$163,000 for the receiver-manager and \$25,000 for our legal costs. As yet I am advised that we still have not been given access to all the records we believe we are entitled to under the terms of our grant.

**Senator O'BRIEN**—How do you propose to gain that access?

**Mr Gibbons**—That is in the hands of the receiver-manager. I understand there are matters now on foot in the Federal Court that have been initiated by the company, and we will await the outcome of those matters.

**Senator O'BRIEN**—Is it the case that a service provider has been appointed by ATSSIS to the Bidjara CDEP Company?

**Mr Gibbons**—The Bidjara CDEP company no longer receives funding from us. We have transferred the CDEP to another provider in order to continue the service. We have done the same with the legal services in Charleville; they have been transferred from Bidjara. Before we did that, we did offer the organisations the option of a grant controller. That would have meant leaving the grant with the organisations but putting in a person to run or manage the grant. They failed to respond to our offer within the time we set. We made arrangements to transfer the funding, but we have not appointed a receiver-manager.

**Senator O'BRIEN**—Have those transfers involved additional cost?

**Mr Gibbons**—They involved some additional cost because we had to pay the management fee for the organisation that is running it for us for the next six months. It is not large. I think it is of the order of \$70,000; that is from memory.

**Senator O'BRIEN**—Is that in each case?

**Mr Gibbons**—I think the legal services figure is less, but I can check those figures for you.

**Senator O'BRIEN**—Yes, if you could give us those on notice. For some years the government has been publicly committed to reform of the Aboriginal Land Rights (Northern Territory) Act. Mr Ruddock received a detailed joint submission from the Northern Territory government and the four Northern Territory land councils in July last year on reform of the act. Can you tell the committee how the government has addressed that reform proposal and when it might propose a reform plan?

**Mr Gibbons**—While the officer who might answer that question comes to the table—I see he is already here—I might just say that I do have those figures for the service provider, so I might as well provide them now. So \$83,000 is the service fee for running the CDEP in Charleville for the balance of this financial year and it is \$38,000 for the legal services. They are rounded figures.

**Senator O'BRIEN**—So they are additional costs?

**Mr Gibbons**—Over and above the cost of the grant, yes.

**Senator O'BRIEN**—Thank you.

**Mr Vaughan**—In relation to the original part of your question about the land rights act reform process, subsequent to receipt of the proposal from the Northern Territory government and the Northern Territory land councils, Minister Ruddock met with the Chief Minister of the Northern Territory to discuss aspects of that. Since assuming responsibility for the portfolio, I think Senator Vanstone has also met with the Chief Minister to discuss related matters. The government is now considering its final position.

**Senator CROSSIN**—Minister, have you met with the land councils or any other stakeholders since receipt of that joint paper?

**Senator Vanstone**—I have not. As for the history of this, Senator O'Brien was talking about review on review. This has been consultation after consultation, and I think we have done that.

**Senator O'BRIEN**—Isn't there a unified position between the Northern Territory administration and the four land councils?

**Senator Vanstone**—Yes, there is.

**Senator O'BRIEN**—That is the best that you are going to get, isn't it? You say 'consultation after consultation' but they all agree!

**Senator Vanstone**—Well—

**Senator CROSSIN**—There may well have been consultation. There was certainly the Reeves report and then the House of Representatives committee. I am wondering about consultation, since you actually received the joint document from the Northern Territory,

between either you or the department and either the land councils or the stakeholders outside of the land councils.

**Mr Vaughan**—There have been meetings between our office and the land councils on several occasions in the period of the process, including one occasion when we went to Darwin and were told on the morning of the meeting that the meeting was off. But we have had some more productive dialogue as well throughout the process. There have been involvements, representations and submissions from the elected arm of ATSIC on their own behalf and, of course, as has just been averted to, the House of Representatives committee and the Reeves report took numerous submissions and held public hearings.

**Senator CROSSIN**—Have you met with the Minerals Council?

**Mr Vaughan**—Yes, the Minerals Council has been actively engaged as well.

**Senator CROSSIN**—Since you have received this joint submission?

**Mr Vaughan**—Yes, they have made representations since the joint submission. The joint submission was effectively published in the *Bulletin* magazine—it became a matter of public knowledge very quickly.

**Senator CROSSIN**—What other industry groups have you met with?

**Mr Vaughan**—The amateur fishermen; the fishing industry, which has had quite an interest over time in aspects of it; obviously the pastoral industry, which has had interest over time in it; and the mining industry, as we have already mentioned.

**Senator CROSSIN**—Where is the government at in this process?

**Mr Vaughan**—The government now has the views of all the players and the parties before it and is in a position to put something in due course before parliament.

**Senator O'BRIEN**—Will it happen in this parliament?

**Senator Vanstone**—That would be my hope. That and ATSIC reviewed would be lovely—and I look forward to your help.

**Senator O'BRIEN**—I am happy to proceed with legislation when it gets to the parliament.

**Senator Vanstone**—Yes, I know. I did not mean by that that you were holding it up. In an election year there will be a whole lot of competing interests.

**Senator O'BRIEN**—Parliamentary super will go through fairly quickly, I suppose.

**Senator Vanstone**—Lots of things will go through fairly quickly. I just hope to get some support for these things to go through quickly.

**Senator CROSSIN**—Minister Ruddock had expressed a view on radio and publicly a number of times that there would be no changes to the land rights act unless there was consultation and agreement? Is that still a view you hold?

**Senator Vanstone**—I did not hear that, but I think there is a lot of agreement.

**Mr Vaughan**—I do not recall Minister Ruddock ever having said that changes were contingent upon agreement.

**Senator CROSSIN**—Perhaps we should find that radio interview for you. We will bring it to the next estimates, if it is not too late.

**Mr Vaughan**—His preferred outcome was agreement, but he did not say that without agreement there would be no change.

**Senator CROSSIN**—Are there aspects that are not covered in the joint submission from the Northern Territory government and land councils that are being considered by the government, or are your consultations and considerations constrained to the matters that are in that joint submission?

**Mr Vaughan**—The submission from the Northern Territory government and the land councils did not cover the totality of issues that the government has under consideration in relation to the act. It covered those that are of particular and direct interest to the Northern Territory and of highest priority interest to the land councils.

**Senator CROSSIN**—In relation to the first part of your answer, the land rights act does actually have a particular interest in the Northern Territory—in fact, it only has an interest in the Northern Territory—so I am not sure that I understand that aspect of your answer.

**Mr Vaughan**—There are aspects of the land rights act which are of more importance to the Northern Territory government than other aspects; for example, the mining provisions are of probably more interest to them than the arrangements for the ABR.

**Senator CROSSIN**—So you are talking about the Northern Territory government rather than just the Northern Territory?

**Mr Vaughan**—Yes. In the case of the land councils, some aspects of it are of more interest to them than others.

**Senator CROSSIN**—Okay, I understand.

**Senator O'BRIEN**—I want to ask about the Aboriginals Benefit Account. It is administered by ATSI, as I understand it. How does the advisory process work? Can you explain to me what happens when an application for grant funding is received?

**Mr Stacey**—By way of background, I think you are talking about applications that might be received by the minister responsible for the act, who is Senator Vanstone, for her to direct that a payment be made out of the Aboriginals Benefit Account for the benefit of Aboriginals across the Northern Territory. I say that at the start because, of course, the Aboriginals Benefit Account is set up also to fund the land council system in the Northern Territory and to provide funds to those directly affected by the mining. But, in relation to those applications that might be made for the benefit of Aboriginals across the Northern Territory, we have had a process for some time, in effect an annual grants program, that has operated pretty much like a grants program in a normal government department. In recent years, after consultation with the committee, that program has not been continued. Nonetheless, applications have come forward from land councils across the Northern Territory. Normally they go to the ABA Advisory Committee, which is set up under the land rights act. It considers those applications before they get forwarded to the minister.

**Senator O'BRIEN**—How does the advisory process work? What happens when an application for grant funding is received?

**Mr Stacey**—For a long time the practice has been that, before the minister would consider an application, it would be considered by the ABA Advisory Committee. That advisory committee meets once or twice a year. The application comes before it. It has normally been received by ATGIS. We include it in a folder, which is given to each member of the ABA Advisory Committee before the meeting. When they meet, they look at the application and then, as a committee, make a decision as to whether or not they are prepared to support it.

**Senator O'BRIEN**—How many times has the advisory committee met in the past two years to consider grant applications?

**Mr Stacey**—I might have to correct my answer on notice but I think the advisory committee has met twice over the period you have suggested.

**Senator O'BRIEN**—How much money is held in the ABA?

**Mr Stacey**—I think you might be talking about what is referred to as the Aboriginals Benefit Account reserve. In fact, I checked this morning and \$88.3 million is currently in the reserve.

**Senator O'BRIEN**—How much has that grown by over the past two years?

**Mr Stacey**—It has grown very substantially. To give an exact figure, I would have to take it on notice but there have been some windfalls over the past two years, which we just did not expect. In fact, our forecast was for the revenue to decline. Nonetheless, we have had some good luck due to the gold price and other commodity prices holding up.

**Senator O'BRIEN**—It is good that someone has benefited from the gold price!

**Mr Stacey**—I would think it would be in the order of around \$20 million but I will take it on notice to give you an exact figure.

**Senator O'BRIEN**—I am happy for you to do that and I am glad for the approximation. As you say, subsection 64 (4) of the land rights act provides for payments to be made to or for the benefit of Aboriginals in the Northern Territory. How many ABA grant applications have been received over the past two years? How many have been approved? How much funding has been released?

**Mr Stacey**—I think that I ought to take that on notice.

**Senator O'BRIEN**—Has any funding been released?

**Mr Stacey**—I have not got the exact number of applications before me. Yes, some have been released. For example, last year the minister approved a payment of \$1.2 million to enable Aboriginal people in the top end of the Territory to maintain their level of equity in the Alice Springs to Darwin railway. There has been at least that payment, and I believe in the year prior to that at least three or four payments were made.

**Senator O'BRIEN**—The money is accumulated in relation to payments from mineral royalties, isn't it?

**Mr Stacey**—It is a unique arrangement. The legislation provides that the equivalent of all the mining royalties which are paid by mining companies that have projects on Aboriginal land in the Northern Territory—and I stress the equivalent amount—is paid out of the

consolidated revenue fund into the Aboriginals Benefit Account. That is the mechanism, and it has been that way since 1976.

**Senator O'BRIEN**—When you have a look at the applications that have been approved you might be able to tell me on notice what sort of grant proposals have been refused. Perhaps you can tell me now why more funds have not been released.

**Mr Stacey**—There are currently a range of applications outstanding. Included in those is an application from the Northern Land Council to support land and sea management projects on Aboriginal land across the top end. There are applications from the four Northern Territory land councils to support the costs of Aboriginal people having to organise funerals and ceremonies. Often people have to travel large distances to attend those. We have some applications for supporting transport to homelands in Central Australia. Some of those applications are good. In fact, the minister has given an indication that she would like to deal with those applications as soon as possible.

We are in a situation where undeniably there has been a significant reduction in the number of applications being approved over the last five years. It has come about for a couple of reasons. One is that the previous Labor government in 1993-94 made a decision that we needed to build up a reserve in the Aboriginals Benefit Account on the basis that revenue was volatile and we could not be certain that the revenue would hold up. It is dependent on mines being on Aboriginal land and of course mines do finish. The Labor government started a process of building a reserve. This government has continued that. That has led to a reduction in the number of applications being considered under section 64(4). The other factor has been to try to get more strategic use of these funds—in particular, to try to maximise the outcome on the ground. I think that this government at least has taken the view that the best way to do that—it is not the only way but it is the preferable way—is to try to get some amendments to the land rights act. We have already covered where that is up to in answers from my colleague. I think it is true to say that that has taken longer than everybody expected. That is not blaming anybody; it has just taken a long time to go through that process.

In the meantime, the previous minister, Mr Ruddock, had various discussions with land councils and the ABA Advisory Committee about what we might do in the interim. We have not always found a satisfactory resolution. We have the situation now where the minister has decided that, pending the outcome to the land rights act reform process, we should now deal with some applications.

**Senator O'BRIEN**—So the reason for the delay was a bargaining chip on land rights legislation?

**Mr Stacey**—No, I was not suggesting that.

**Senator O'BRIEN**—That was the way it came across, so I thought I should raise it with you.

**Mr Stacey**—I do not think that is right. The reason is that the government has taken the view that it would be preferable if we could get a framework in place that was clear, understood and agreed to by parliament about how these funds should be used. We are dealing with a section in the land rights act that has not been changed since 1976.

**Senator O'BRIEN**—Are the moneys in the account earning interest or are they simply held in consolidated revenue?

**Mr Stacey**—They are earning interest.

**Senator CROSSIN**—Are there guidelines for the release of moneys or grants under the ABA? What determines what gets a tick, what does not get a tick and what might get sent through to the minister?

**Mr Stacey**—There are guidelines which were agreed to by the previous minister about, if you like, funding criteria, which each application should be considered against before the minister makes a decision.

**Senator CROSSIN**—Can we be provided with a copy of those? Are those guidelines public?

**Mr Stacey**—Yes.

**Senator CROSSIN**—Have they been reviewed in the last five years?

**Mr Stacey**—We have started a process of trying to establish a new set of guidelines. We have not quite finished it yet but we have been looking to set up a new set of guidelines.

**Senator CROSSIN**—So when was the last time they would have been reviewed or overhauled? Or have they not been looked at since 1976?

**Mr Stacey**—They have been looked at since 1976—

**Senator CROSSIN**—That is a relief.

**Mr Stacey**—but I will have to take the question on notice.

**Senator CROSSIN**—Thanks.

**Senator O'BRIEN**—Does ATSIIC or the department provide any funding to Indigenous Festivals of Australia in relation to the Croc Festivals or any other project?

**Mr Gibbons**—The short answer is yes. I have some figures here. In the current financial year ATSIIS released \$54,000 plus GST to Indigenous Festivals of Australia for Croc Festivals and related activities, and a further \$30,000 plus GST and funding has been either recommended or approved but not released. That was at 17 February.

**Senator O'BRIEN**—Does an interdepartmental committee coordinate funding for the Croc Festivals?

**Mr Gibbons**—There is an interdepartmental committee and funding comes from other sources. I have only disclosed our funding. That committee is led by the Department of Health and Ageing. There is an ATSIIS member on that committee.

**Senator O'BRIEN**—How many Indigenous employees does Indigenous Festivals of Australia have?

**Mr Gibbons**—I believe there is one.

**Senator O'BRIEN**—Out of how many?

**Mr Gibbons**—Out of seven. I think they have seven employees and one is Indigenous. If I am wrong I will correct that on notice.

**Senator O'BRIEN**—Do you know how Indigenous professional skills have been developed through the festival program?

**Mr Gibbons**—I am aware that they host an accredited training program for young Indigenous people in stage management. This ran across all the festival events in 2003, training about 94 students.

**Senator O'BRIEN**—It will be interesting to see how much Commonwealth money that generates.

**CHAIR**—That brings us to the completion of this consideration of additional budget estimates for the Senate Legal and Constitutional Legislation Committee in this portfolio area. I thank Mr Vaughan and Mr Gibbons and their officers for assisting the committee. Mr Farmer, I thank you and your officers for your assistance to the committee today and, of course, Minister, you too. I also want to note for the record that the committee was advised this morning that yesterday's appearance by the federal Privacy Commissioner, Malcolm Crompton, was his last appearance. He has been appearing in front of the committee for some time as the federal Privacy Commissioner. I want to note for the record the committee's appreciation of his assistance in that period and I apologise for not mentioning it yesterday. Could I also thank all of the secretariat, sound and vision, Hansard and attendants for their support. The committee, as you will recall from the beginning of both yesterday's and today's proceedings, agreed to a date of return of answers to questions on notice of 2 April, if I am not mistaken. We would appreciate any assistance with that.

**Committee adjourned at 11.00 p.m.**