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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

WEDNESDAY, 26 MAY 2004

CANBERRA

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SENATE

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

Wednesday, 26 May 2004

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

Senators in attendance: Senators Bartlett, Buckland, Collins, Crossin, Kirk, Ludwig, Payne and Scullion

Committee met at 9.05 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

Internal Products

Financial Services

Mr James Malizani, Acting Chief Financial Officer, Financial Strategy Division

Parliamentary and Legal Services

Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division

Mr Douglas Walker, Assistant Secretary, Visa Framework Branch

Information Technology and Office Services

Ms Cheryl Hannah, Chief Information Officer, Business Solutions Group

Human Resource Services, Internal Investigations and Property

Mr John Moorhouse, First Assistant Secretary, Corporate Governance Division

Ms Lesley Daw, Assistant Secretary, Property and Performance Improvement Branch

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

Output 1.1: Non-humanitarian entry and stay

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

Mr Neil Mullenger, Acting Assistant Secretary, Migration Branch

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

Mr Bernie Waters, Assistant Secretary, Business Branch

Ms Jacki Hickman, Acting Assistant Secretary, Delivery Innovation 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 Garry Fleming, Assistant Secretary, Detention Policy Branch

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

Ms Yole Daniels, Assistant Secretary, Compliance and Analysis Branch

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

Ms Cath Wilson, Acting Assistant Secretary, Identity Fraud and Biometrics Branch

Mr Greg Phillipson, Director, Entitlements Verification Policy Section

Mr Des Storer, First Assistant Secretary, Parliamentary and Legal Division

Mr John Eyers, Assistant Secretary, Legal Services and Litigation 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

Mr Bernie Hackett, Financial Strategy Division

Output 2.2: Translating and interpreting services

Mr John Williams, State Director, Victoria State Office

Mr Con Pagonis, Director, TIS National

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

Ms Dianne Hawgood, Executive Director, Indigenous Community Coordination Taskforce

Migration Review Tribunal

Mr Steve Karas, Principal Member

Mr John Lynch, Registrar

Mr Rhys Jones, Deputy Registrar

Refugee Review Tribunal

Mr Steve Karas, Principal Member

Mr John Blount, Deputy Principal Member

Mr John Lynch, Registrar

Mr Rhys Jones, Deputy Registrar

Indigenous Land Corporation

Mr David Galvin, General Manager

Ms Jodie Lindsay, Chief Finance Officer

Torres Strait Regional Authority

Mr Mike Fordham, General Manager

Australian Institute of Aboriginal and Torres Strait Islander Studies

Dr Luke Taylor, Acting Deputy Principal

Mr Tony Boxall, Director, Corporate Services

Aboriginal and Torres Strait Islander Commission

Mr Mick Gooda, Acting Chief Executive Officer

Mr Rod Alfredson, Director, Office of Evaluation and Audit

Ms Caroline Joske, Commission Support Branch

Aboriginal and Torres Strait Islander Services

Mr Wayne Gibbons, Chief Executive Officer

Mr Bernie Yates, Executive Coordinator

Mr Geoff Scott, Executive Coordinator

Mr Pat Watson, Group Manager Corporate

Mr John Kelly, Group Manager Network

Ms Ros Kenway, Legal Counsel

Mr Brian Stacey, Group Manager Land and Development

Ms Adrienne Gillam, Acting Group Manager for Economic and Social Participation

Ms Kerri 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 McMillan, Investigations and Compliance Branch

Mr Paul Barrett, Chief Finance Officer

Mr Peter Taylor, Branch Manager Housing and Environment

Aboriginal Hostels Limited

Mr Keith Clarke, General Manager

Indigenous Business Australia

Mr Ron Morony, General Manager

Mr Ian Myers, Deputy General Manager

Office of the Registrar of Aboriginal Corporations

Ms Laura Beacroft, Registrar

CHAIR—I declare open this public meeting of the Senate Legal and Constitutional Legislation Committee. On 11 May 2004 the Senate referred to the committee the particulars of proposed expenditure for the service of the year ending on 30 June 2005 and particulars of certain proposed expenditure in respect of the year ending on 30 June 2005 for the Attorney-General's and Immigration and Multicultural and Indigenous Affairs portfolios. The committee will today begin its examination of the Immigration and Multicultural and Indigenous Affairs portfolio, proceeding according to the order on the circulated agenda. The committee will start with the department itself and then hear from interstate and local agencies.

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 16 July 2004 for receipt of answers to questions taken on notice and additional information. I welcome Senator Amanda Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs, and Mr Bill Farmer, Secretary of the Department of Immigration and Multicultural and Indigenous Affairs, 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 draw to the attention of witnesses the resolutions agreed to by the Senate on 25 February 1988, 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.

I also draw attention to resolution 1(16) which 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.

Evidence given to the committee is protected by parliamentary privilege. I remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

I note that the department has provided answers to questions on notice, including two interim answers to questions taken on notice from the additional estimates round in February 2004, and final answers in those areas are proceeding, I understand, on advice from Mr Farmer and Mr Storer. Minister or Mr Farmer, do either of you wish to make an opening statement?

Senator Vanstone—I do not have an opening statement other than to say, as usual, I am very pleased to be here with such a civilised group. I hope we can continue that through the next couple of days. I am pleased to note that I do not have to apologise this time for the answers to questions not being provided on time. As I pointed out last time, there was a swap of portfolio and it was a bit of a battle getting on top of it quickly. I understand that we have done a much better job this time.

CHAIR—The committee is grateful, Minister.

Senator Vanstone—You should not need to be grateful. It is our job to get them to you on time, but thank you.

CHAIR—We will begin with questions on internal products.

Senator LUDWIG—I want to question you in relation to contracts and consultancies. Specifically, the first one was Health Services Australia. Do you have the total cost of that contract? It also relates, you may be aware, to question on notice No. 6. There was no value provided in that question to you at the time. It was from Senator Sherry. It included the total value of consultancies but there was also a question about breaking it up. It was not broken up in answer to question No. 6.

Mr Rizvi—We have essentially two contracts with Health Services Australia. One contract is in respect of services provided in support of the processing of the health requirement for people who are overseas. I do not have the precise value of the contract with me. It would be less than \$500,000 per annum, but I will take that on notice and get you the precise figure.

Senator LUDWIG—Please do.

Mr Rizvi—There were two contracts. Ms Daw has just pointed out to me that that particular contract was valued at \$423,060. The second contract that we have with Health Services Australia relates to the health requirement for people who are already in Australia. That contract does not involve the expenditure of Commonwealth moneys, because it is based on cost recovery by Health Services Australia directly from the applicant who attends the health examination.

Senator LUDWIG—There are no incidentals in relation to that contract?

Mr Rizvi—I do not think there are, but I will take that on notice and check. I think all of the costs associated with that contract, as far as the costs of Health Services Australia are concerned, are recovered by Health Services Australia from the applicant. There are costs associated with our own administration of the contract.

Senator LUDWIG—Yes, but I am not asking you about that.

Mr Rizvi—I have just been reminded that there is a small amount in that contract where we use the services of Health Services Australia to review a health opinion in respect of an overseas applicant where that applicant seeks to contest the initial decision.

Senator LUDWIG—Does HSA have the exclusive DIMIA health assessment role for all the visa categories?

Mr Rizvi—In respect of persons who are onshore and applying for a visa, HSA is the only organisation with which we contract; that is correct.

Senator LUDWIG—And in respect of offshore applications?

Mr Rizvi—In respect of offshore applications, we manage a panel doctor network throughout the world. They are largely private practices operating throughout the world which we have selected on the basis of their ability to deliver services. We utilise them. In respect of the health services they provide us, they charge the applicant directly for the health examination that is undertaken.

Senator LUDWIG—How does that work? A panel is available to offshore persons, they access the panel and pay for the medical and that information is provided to you?

Mr Rizvi—The outcome of the medical then comes to us.

Senator LUDWIG—Directly from the relevant doctor?

Mr Rizvi—Directly from the relevant doctor, not via the applicant. It comes to our decision makers. Essentially the advice that comes from the panel doctors will indicate whether the outcome of the health examination was clear or not. If the examination was unclear then that matter is examined by our own doctors—that is, DIMIA employed doctors—in our office in Sydney.

Senator LUDWIG—If there is an appeal in relation to that, is it an appeal in relation to an offshore application?

Mr Rizvi—When there is an appeal what we look for is someone who is independent from our doctors in Sydney to do the appeal.

Senator LUDWIG—So it is an appeal on the papers?

Mr Rizvi—Yes.

Senator LUDWIG—That is paid for by—

Mr Rizvi—That is paid for by DIMIA.

Senator LUDWIG—What does that amount to each year? I am quite happy for you to take that on notice.

Mr Rizvi—We do not have those figures with us, Senator, so we will take that on notice.

Senator LUDWIG—In respect of the Institute of Continuing Education at the University of Queensland and the provision of an English language training program for Indonesian government officials, what was the total cost of that contract?

Mr Killesteyn—We will take that one on notice as well.

Senator LUDWIG—Thank you. Similarly, could you check why that was not provided in the answer to question on notice No. 6. These are effectively follow-ups from question on notice No. 6 from Senator Sherry. My understanding on reading it—although I am open to an alternative view—is that this information was asked for but was not all provided. When you take that on notice can you also explain the background and the need for this service to Indonesian government officials—or do you know that now?

Mr Killesteyn—I can take that now, Senator. This is part of an ongoing program that we have with Immigrasi, which is the Indonesian immigration department, for a range of capacity building measures that essentially revolve around strengthening their own border management

processes. It is one of a number of initiatives that we have going with the Indonesian government to strengthen the English language in the individuals concerned from the immigration department. Obviously that is a very important part of their engagement with not only Australia but other countries in the region. Other projects include systems related projects to try to strengthen the way in which they manage their border and to give them information technology support at the border.

Senator LUDWIG—And is it only that immigration agency?

Mr Killesteyn—As far as we are concerned, we not only work with immigration authorities in Indonesia but also we have other projects going in Thailand, East Timor—

Senator LUDWIG—Sorry, you may have misinterpreted what I meant. In relation to Indonesia is it only the immigration department of Indonesia that you deal with or are other agencies involved?

Mr Killesteyn—Our primary relationship is with Immigrasi.

Senator LUDWIG—Who else is it with?

Mr Killesteyn—In terms of projects, it is with Immigrasi.

Senator LUDWIG—As for the role or the task of the Indonesian officials who undertake that training, when they complete it do they remain in Australia or do they go back to Indonesia to act as interpreters in immigration or—

Mr Killesteyn—They are a mix of officials from Immigrasi at both a senior and a middle management level. Once they have completed the program they will return to Immigrasi and take up positions either within Jakarta or in regional posts throughout Indonesia.

Senator LUDWIG—So the participants could work in the area of people-smuggling, border protection, immigration or law enforcement—or is that too broad?

Mr Killesteyn—They come from immigration so, broadly, they are managing the border right across the spectrum of the archipelago.

Senator LUDWIG—So the Indonesian participants could then go back and undertake all that work that their immigration department in Indonesia undertakes?

Mr Killesteyn—Yes, they are immigration officials drawn from the immigration department and have ongoing roles within the immigration department. They spend a couple of months in Australia under the English language program and then return to either take up the role from which they were previously drawn or other roles as determined by the Director-General of Immigrasi.

Senator LUDWIG—Do you know what those roles are?

Mr Killesteyn—I think they are middle management roles. As well there are some drawn from senior management. Some are fresh out of the immigration school that they have, the college, so they could go back to managing a particular border point somewhere in Indonesia. They could go back to the airport in Jakarta or they could be employed in the central office in Jakarta dealing with international engagement matters.

Senator LUDWIG—Is it an ongoing program or is it a one-off program?

Mr Killesteyn—It has been going now for 12 months and we will be extending it for another 12 months. It is a very worthwhile program both for us in terms of building relations with Immigrasi and for strengthening Immigrasi itself.

Senator LUDWIG—It has been going for 12 months; is there an agreement for it to continue, and for how many more years?

Mr Killesteyn—We have just agreed for it to be extended for a further 12 months. At each 12-month point we normally conduct a review to determine whether it is meeting the objectives of both Immigrasi and the Australian government.

Senator LUDWIG—Is that review available? You would have just completed one, I take it.

Mr Killesteyn—It is not a formalised review; it is a matter for between me and the Director-General of Immigrasi.

Senator LUDWIG—Is there a file note that indicates the outcomes?

Mr Killesteyn—There would be minutes of the immigration working group meetings but I cannot provide you with any formalised assessment that goes into the detail of the program.

Senator LUDWIG—I will leave that at the moment. You have said that it has been extended for another 12 months. Is it envisaged that it will continue on a 12-monthly renewable basis or is it a one-off for another 12 months?

Mr Killesteyn—From our point of view it is serving a very good need, and that is for us to continue to have a strong basis for the exchange of views with, and support for, Immigrasi. However, I do not particularly want to commit it to some long-term future. So we do it on the basis of essentially 12-month rests. At any stage there could be an issue that might change either our perspective of the program or that of Immigrasi. We have had very strong support from the Director-General of Immigrasi and while that person is there I think this program will continue to receive support from Indonesia.

Senator LUDWIG—Was it tendered to the University of Queensland? Will it be retendered?

Mr Killesteyn—We can take that on notice but my recollection is that we canvassed a number of institutions to be able to deliver the program. Queensland University provided the most effective cost-value program for English language training.

Senator LUDWIG—What sparked the initial interest in providing it or having the tie-up with the department of immigration in Indonesia?

Mr Killesteyn—The program emanated, I think, from a visit by ministers back in 2001. We were looking for ways in which we could help the Indonesian immigration department develop their own border management skills. Out of that an officials working group was developed and it is jointly chaired by me and the Director-General of Immigrasi. We have now met on seven occasions since 2001 and we look for various initiatives that can support Immigrasi in its endeavours to improve its own border management capabilities.

Senator LUDWIG—We might move to Group 4 Global Solutions. What was the total cost of that contract?

Mr Davis—The estimated value of that contract over the four-year term of the contract is \$300 million at the moment. But, depending on arrival rates, levels of occupancy of centres and so forth, that is purely a broad estimate at this stage.

Senator LUDWIG—Is that just for the one financial year or is that the total cost of the contract over however many years?

Mr Davis—That is the estimated cost of the contract over the four-year period for which the contract is expected to run.

Senator LUDWIG—When did it start?

Mr Davis—The contract was signed at the end of August last year. The effective start date was 1 September, but we have had a progressive handover of detention centres to the new contractor and the finalisation of the handovers was at the end of February 2004.

Senator LUDWIG—Is the breakdown an equal amount each financial year over the four years?

Mr Davis—No. The current financial year obviously has a part-year impact. The contract is a four-year contract and essentially the \$300 million figure I mentioned is a broad estimate of the value of the contract over that period. But as I said, it is likely to go up and down depending on the numbers in detention centres, the number of facilities open or shut et cetera. At best, that is a broad estimate and, no, I would suggest that it is likely to vary from year to year.

Senator LUDWIG—Do the terms of the contract allow for a variation depending on the number or is it a per person rate that is returned?

Mr Davis—It is a combination of both. The way the pricing structure of the contract works is that there is an underlying fixed component based on a broad occupancy level for each centre and then there is a per head cost on top of that. For example, each centre is broken into 25 per cent ranges and if a centre is 50 per cent full you are in a certain range and if a centre is 75 per cent full you are in a different range for a fixed component, and then there is a per head payment on top of that broad fixed component.

Senator LUDWIG—How much of the department of immigration budget for detention facilities is received by Group 4? Is there a breakdown like a pie chart as to how that mix of costs is made up?

Mr Davis—Perhaps I should take that on notice in terms of what we can provide. The current year could illustrate the point, in that the current year is probably 70 per cent to 80 per cent of our budget but the current year also has a combination of contract payments to the former provider as well as to the new provider. It is probably a difficult question to answer, but we can take it on notice and see what we can do to answer that question.

Senator LUDWIG—That is fine. I will be happy to see what you can do in relation to it. I now turn to the International Organisation for Migration and the services relating to the movement of refugees who have been approved for entry into Australia—the cultural orientation pilot for those Australia bound RSHP entrants. What is the total cost of the contracts? If we put it with the same outputs it would be a bit easier, wouldn't it, Mr Farmer?

Mr Farmer—Yes.

Senator LUDWIG—The way it is structured makes it a little bit difficult. In fact all of these—and I suspect you might want to have a look at that—should have been provided in the answer to question on notice No. 6 so that we could have avoided going through this today. Are all of those put on the Web as required by the finance and public admin committee?

Mr Farmer—As far as I know, yes, we comply with the Senate requirements.

Senator LUDWIG—I wonder why they did not end up in the answer to question on notice No. 6.

Mr Farmer—Question No. 6 asked for a list and details of the nature of the contracts; it did not ask for the costings.

Senator LUDWIG—The one I have refers to the total cost of consultancies; whether a consultant contract, where applicable, has been renewed; where the consultancy has been renewed, the details of the cost of the new contract; and the location of the consultant. It may not mention the exact cost of the current contract.

Mr Farmer—I have a different question No. 6.

Senator LUDWIG—That always happens. We might not get too hung up on that.

CHAIR—We will check the record as to what went from here to there and see where the discrepancy arises.

Mr Farmer—There is a question No. 5 which relates to costs.

Senator LUDWIG—We will not delay the proceedings. I will continue—

Mr Farmer—Put it this way, Senator: I am not aware that we have failed in answering that question.

Senator LUDWIG—I don't think I was alleging that. I might have been intimating it but not quite alleging it. I was looking more for a clarification. We will leave it at that point.

Mr Farmer—I am not being defensive; I am just being helpful.

Senator LUDWIG—I did not want to make an allegation that was untrue, either. I was talking about the RSHP entrants. What was the total cost of that contract?

Mr Hughes—I believe you are asking about the cultural orientation pre-embarkation pilot.

Senator LUDWIG—Yes.

Mr Hughes—As at 30 April we had spent \$113,000 on courses under that contract.

Senator LUDWIG—What was the length of the contract?

Mr Hughes—Twelve months.

Senator LUDWIG—Is that a renewable contract or has that come to a conclusion?

Ms Bicket—They are pilot projects in the two locations for 12 months. An evaluation is being undertaken at the moment and, subject to the outcomes of that evaluation, the contract could either be extended or could come to an end. But, formally, the contracts come to an end at the end of the 12 months.

Senator LUDWIG—How many contracts are involved in total?

Ms Bicket—There is one contract, with the International Organisation for Migration.

Senator LUDWIG—You were using the plural, though.

Ms Bicket—There is one head contract which was signed in August 2003 and we expanded the pilot to include another location in November 2003 and did a deed of variation to the contract with a revised schedule to that head contract.

Senator LUDWIG—Why was that?

Ms Bicket—We wanted to expand the pilot to see that it covered a greater range of circumstances and people so that we could have a better understanding of the implications of the pilot and that it was reaching the relevant target groups. It also involved groups that were considered to be in the greatest need of that sort of information.

Senator LUDWIG—Is there an outcome of that—a document in relation to the pilot—or hasn't the evaluation been concluded yet?

Ms Bicket—The evaluation is in train at the moment. It has not yet been completed.

Senator LUDWIG—In what form will it take?

Ms Bicket—The evaluation is being run through the settlement branch of the department. There are two aspects to the evaluation. There is obviously an evaluation of the performance of the contractor in delivering the programs, looking at how many entrants they have delivered the program to, the nature of the delivery and so forth. There is also a second element to the evaluation, looking at the entrants themselves and seeking community feedback. The Refugee Council of Australia has been employed on a consultancy basis to do a survey of the entrants and community feedback about the success or otherwise of the pilot.

Senator LUDWIG—When do you think that will be concluded—the evaluation and those pieces of research?

Ms Bicket—As I said, the actual—

Senator LUDWIG—I don't want to bind you to a date.

Ms Bicket—We would hope to have the evaluation finalised by the end of this financial year so that there is plenty of time to move towards either new arrangements or ending the pilot, depending on what the outcomes are.

Senator LUDWIG—So the pilot program is due to end in this financial year?

Ms Bicket—It is due to end in August, at the end of the contract.

Senator LUDWIG—It is not likely that you will have the evaluation and research finalised in the short term, such as within a four-week period?

Ms Bicket—The research that the Refugee Council of Australia has been undertaking is nearing completion, so we hope to have that final report from the RCOA shortly. Therefore we would look to be wrapping up the evaluation, hopefully, towards the end of June, early July.

Senator LUDWIG—If that is available and can be provided to the committee before the return date for questions on notice, you might want to include that; but if it is not or it has to go to the minister first then we might come back to it and you can let us know by note that that is what has happened.

Ms Bicket—Sure.

Senator KIRK—I have some questions about the cost of legal services and litigation. I have some figures here for the AGS: provision of litigation services, \$9 million; provision of services of special counsel to DIMIA, \$400,000; and for legal advice services, it says 'not disclosed'. Can you give us some information about that?

Mr Eyers—The Australian Government Solicitor provides legal services to the department under three contracts: one in respect of litigation services and one in respect of the provision of the services of a special counsel, and the other one is a contract to provide legal advice services to the department. The Australian Government Solicitor is one of a panel of three firms providing legal advice services to the department. For the current year and for previous years, the total cost of that panel for the provision of legal advice services has been of the order of about \$500,000 per year. Unfortunately, I cannot break that up between each of the three panel firms, but the total cost is of the order of \$500,000 per year.

Senator KIRK—That amount of \$500,000 takes in the AGS plus the other two firms, and they are?

Mr Eyers—Phillips Fox and Clayton Utz.

Senator KIRK—Perhaps you could take it on notice to provide the breakdown between Phillips Fox and Clayton Utz.

Mr Eyers—Certainly.

Senator KIRK—We have a figure here of \$4½ million for litigation services provided by Blake Dawson Waldron and it says, 'provision of legal services in support of market testing of DIMIA services, not disclosed'. Again that is a figure we would like to get more information on.

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

Senator KIRK—If you could. There seem to be some gaps in the figures I have, so I wanted some clarification on them.

Mr Eyers—Can you tell us where the figures have come from?

Senator KIRK—We are trying to find the page number and will get back to you on that. Still on the question of litigation costs and legal services, there was a report in the *Financial Review* on Monday of this week indicating that DIMIA will spend over \$32 million on legal services. Can you advise where the shortfall is between the information provided by the department and that in the *Financial Review*? Can you outline where that discrepancy lies?

Mr Storer—We are aware of the report, obviously. There is no shortfall. The increased costs are all due to the increased cost of migration litigation in the courts. There has been a rapid rise in the number of people applying and who are currently before the courts in migration litigation. In fact, the cost of defending the minister's and the government's

decisions in this regard are, overall, going down per case. So over the period of time there have been approximately twice the number of people seeking litigation in the courts, and the costs of defending that litigation per case over the period up to the early nineties was much higher than the current cost of defending the litigation per case.

Senator KIRK—So you are saying that the costs of defending the litigation have fallen over time.

Mr Storer—Yes; that is correct.

Senator KIRK—Could you provide us with a table of the costs of litigation over the last five or 10 years, if you think it is appropriate.

Mr Storer—Yes, I can do that.

Senator KIRK—I still cannot understand this difference between the \$32 million that the *Financial Review* talks about and the budget estimated amount to be spent on legal services. You say there is not a shortfall.

Mr Storer—No, there is not a shortfall. We have to defend the cases that are brought before the courts, so I am not sure exactly what you are asking. There has been no shortfall. I think they were referring to the 2001-02 period as against the 2002-03 period. Over that period of 1½ or two years there was almost a doubling, as I remember—Mr Eyers might be able to help more precisely—of the number of cases that were brought before the courts. So we have provided the necessary legal services to defend those cases.

Senator KIRK—Perhaps when you provide us with the table setting out the amounts that have been spent over the last few years that should make it clearer for us.

Mr Storer—That should answer it for you.

Mr Killesteyn—We are in a position to provide some information in relation to the previous question on the Immigrasi contract, and also the one that you asked about, Senator Kirk. In relation to the University of Queensland, the contract for English language training is \$121,900. In relation to the provision of legal services in support of market testing of DIMIA services by Blake Dawson Waldron, the figure is \$150,000. Both of the figures I have just provided are estimates. In relation to Blake Dawson Waldron the figure for the provision of litigation services is \$14 million over four years. All of these figures are provided on our web site.

Senator KIRK—You might need to take this on notice as well. Could you give us a breakdown between the providers of legal services—that is, AGS, Blake Dawson Waldron, Clayton Utz, Phillips Fox and Spark Helmore, solicitors—as to the work that each of those companies or agencies was involved in and also the nature of it and whether or not they were involved in appeals or judicial review applications to the RRT, the MRT, or the Federal Court. Do you have that information?

Mr Eyers—Across the whole range of each of the four firms doing our litigation work, they do the whole gamut of solicitor services to the department. The list would be identical for each of the four firms. They do work in the High Court, in the full Federal Court, in the AAT and in the Federal Magistrates Court, on both appeals and defence.

Senator KIRK—So they do not give you any breakdown of the work that they are doing on a daily basis? I understand that they can do a variety of work, but is the amount that you pay them just a set amount, regardless of what they are doing during the period of time?

Mr Eyers—It is a services contract; each firm has a services contract and we pay for services provided. But the amount of services provided is quite extensive. We do not require an individual itemised bill on an hourly basis for each piece of work that they do. We obtain a monthly account from each of the firms for the work they do in respect of each of the litigation matters. It is on that basis that we pay.

Mr Storer—That is dealing with litigation matters. With respect to the three firms that are providing legal advice matters, we could probably provide information on the sort of areas of advice given.

Senator KIRK—That would be helpful.

Mr Eyers—Again, Senator, it involves the gamut of work—we do not have specialist firms. We do not go to firm X for a certain type of work and firm Y for another type of work. It will depend on a range of factors and each firm provides a range of services to the department.

Senator KIRK—What are the factors? How do you determine which firm is going to be doing what work at any particular point in time?

Mr Eyers—In respect of the litigation side, it depends on where they are. Certain firms do certain work in certain states. It also depends on whether the firm has had a previous matter dealing with the same type of litigation, or they might have dealt with the same applicant where there are multiple applications by a single litigant. It can be a singular determination, having regard to the type of matter and the complexity of the matter, as to where the department will receive the best value for money services.

Senator KIRK—Within your department you have individuals who are charged with the responsibility of determining who it is in the outside firms that will undertake the work. Is that how it works?

Mr Eyers—Yes.

Senator KIRK—And a monthly account is rendered from each of the firms for the work they have done?

Mr Eyers—Yes.

Senator KIRK—I am just trying to understand the set-up here. I understand that you seek outside legal advice but you also have internal DIMIA legal advice as well.

Mr Eyers—Yes.

Senator KIRK—What sort of percentage of the internal DIMIA legal advice would relate to migration work—that is, to migration litigation?

Mr Eyers—If we are speaking about advice, there is a unit within the legal services and litigation branch which provides solely advice to departmental officers. That is 100 per cent of the work that they do. They provide many thousands of advices each year, both oral and written.

Senator KIRK—How many persons are employed in the legal section?

Mr Eyers—In that section? Approximately 12 to 14.

Senator KIRK—Does the department provide legal advice to the minister and to her office in relation to, say, the exercise of ministerial discretion or is that advice sought from elsewhere?

Mr Eyers—There would be advice that would be provided internally.

Senator KIRK—By your department, by those—

Mr Eyers—Yes, but advice could also be sought externally, depending on the nature of the matter.

Senator LUDWIG—In the area of litigation, are you able to say what is the total cost of your external legal spend? How do you keep a breakdown? Do you keep it between firms of solicitors or between barristers and solicitors more generally? You work on a panel system, I take it; a number of firms would be on the panel and you would then send the work according to what you thought might be the relevant area and the relevant panel solicitor to undertake the work. That would be the usual way that you would do it.

Mr Eyers—Yes.

Senator LUDWIG—What statistics do you then keep about that for your own auditing purposes and to check that the work has been done, that it has been done efficiently and that they are utilising best practice to do the work?

Mr Eyers—We keep a range of statistics. We have four-monthly performance reviews of each of the panel firms providing litigation work, where we keep track of indicators ranging from cost to timeliness and an assessment of quality by our own internal branch staff who are monitoring the litigation.

Senator LUDWIG—What is available to the committee on that? There is always a question of legal privilege that might attach to some of the solicitors' work or information—and I do not particularly want to go there—but we could look at the money-orientated statistics that you might keep. I do not want to know if you have a bad solicitor—I might later, but not now.

Mr Farmer—Are you interested in the breakdown?

Senator LUDWIG—I am interested in your total legal outsourcing spend and how that might be broken down between solicitors and barristers.

Mr Farmer—I think we can give you that information.

Mr Storer—We can give you that information but I think we should take on notice the monitoring aspects of your question and just check that.

Senator LUDWIG—I am only too happy with that.

Mr Storer—They are all subject to contracts.

Senator LUDWIG—Yes. The other area I was particularly interested in was the ADR, the alternative dispute resolution, and whether or not you have guidelines that you use to ensure

that the panel solicitors use ADR procedures. If you do not have guidelines, why wouldn't you?

Mr Eyers—The difficulty with using alternative dispute resolution in migration cases and migration litigation is that people are applying for visas for which there are fairly prescriptive criteria, and you cannot have half a visa. We cannot agree to grant a visa on some other basis.

Senator LUDWIG—You do, under ministerial discretion, but I will not go there.

Mr Eyers—Good. It is very difficult to negotiate an outcome in the vast bulk of our litigation because a person, on the criteria, is either entitled to a visa or is not entitled to a visa.

Senator LUDWIG—I do not want to put words in your mouth. Are you saying that you do not have guidelines in relation to ADR or that you do not encourage the use of ADR?

Mr Eyers—We do not have internal guidelines for the use of ADR in litigation matters.

Senator LUDWIG—Do you encourage panel solicitors to use ADR?

Mr Eyers—Only in those cases where it is appropriate. There have been a very small number of cases where we have used alternative dispute resolution—where matters have gone to mediation et cetera—but they are very much the exception and not the rule.

Senator LUDWIG—In relation to the earlier matter on the annual reports, there was an answer to question No. 4 from me on 17 February 2004. The only relevant part of the answer you gave related to the 2001 annual report where you listed all the contracts and the amounts. There were only 27 during that period and therefore they were able to be included. The answer went on to say:

In subsequent years the number of consultancies has increased considerably and it was no longer practicable to publish the full list in the annual report. More detailed information is available on request as the guidelines require.

I think we then started asking about the consultancies and the details from here. That begs another question: would you put all your contracts for consultancies on the Web anyway if they were over a certain amount?

Mr Moorhouse—We list our contracts on the Web in accordance with the Murray motion and that requires us to list contracts of the value of \$100,000 or more. They are listed on our web site.

Senator LUDWIG—So the only ones that are not listed and we would have to ask for from here would be those that are under \$100,000?

Mr Moorhouse—That is correct.

Senator LUDWIG—Is there a list of those that are between \$50,000 and \$100,000? I was trying to winnow it down a little bit so that there were not too many. I am happy for you to take that on notice.

Mr Moorhouse—We have that information but we do not publish it on the web site. It would be quite an extensive list if you wish to see it.

Senator LUDWIG—Thank you.

Mr Moorhouse—I come back to the earlier question you asked, about the contract relating to the institute providing English language education to the Immigrasi staff. I think there is some confusion in terms of the numbers and the nature of the questions.

Senator LUDWIG—Yes, there was.

Mr Moorhouse—One of the questions that we answered related to the contracts. We listed those contracts but we did not list value, which was already included in the Murray motion. The institute was included in that list. The other question asked for details of consultancies and we provided a listing of consultancies, including the value of those consultancies, in line with the question. With respect to the contract with the institute to provide English language services, we do not consider that to be a consultancy. It was listed under the list of contracts rather than the list of consultancies.

Senator LUDWIG—I see. I went to look under consultancies and I could not find it there. We will have to be more precise in our language.

Mr Moorhouse—If you want to see the full list of contracts, it is on the web site in accordance with the Murray motion.

Senator LUDWIG—I will go to that. Thank you.

Mr Killesteyn—To round off, the contract for the review of MOC opinions with the HSA, the question you asked earlier, had a value of \$47,000.

Senator LUDWIG—Thank you. That is why it would not be on the Web either, because it is below \$100,000. It is helpful to clarify that. I hope I do not have to ask it again.

Senator KIRK—I have some questions in relation to the Migration Litigation Review. Did the department provide a submission to the Penfold review?

Mr Storer—We did not provide a submission as such, but we were involved in discussions with the Penfold committee in the preparation of their report.

Senator KIRK—Who was involved in the discussions?

Ms Godwin—There was a steering group. I was a member of that steering group. In addition, we had a couple of legal officers who provided technical advice and expertise about the Migration Act. As well as that the review team—that was not the steering committee—conducted a series of interviews with a whole range of people. Members of the department were interviewed in that process.

Senator KIRK—How many people were in the steering group?

Ms Godwin—I do not recall. The Attorney-General released a statement at the time. We could find that for you.

Senator KIRK—You said that a series of interviews were conducted—that is, by the review team itself?

Ms Godwin—As part of their fact finding and understanding the issues, yes.

Senator KIRK—Were the interviews of people in the department or external people? You said a number of people were interviewed.

Ms Godwin—It was up to the team. They interviewed a range of people but, as part of that, they also interviewed some people from within the department. That was not the sole focus of their discussions.

Senator KIRK—So there was no written submission as such put in by the department?

Ms Godwin—No.

Senator KIRK—Over what period of time did these discussions take place?

Ms Godwin—I think the Attorney announced the review in—I cannot now recall whether it was September or October. The process was conducted in the latter part of last year.

Senator KIRK—It seems the department had quite a substantial participation within the review. Is that fair to say?

Ms Godwin—One of the questions Ms Penfold, as the person conducting the review, obviously wanted to understand was how the act worked, how the litigation worked, and what was our experience of numbers, outcomes and so forth. A lot of the focus was just on understanding our experience of litigation.

Senator KIRK—Have you attributed any notional cost to the involvement of the department in this review? It seems that a number of the officers had their time taken up for some time in order to cooperate with the review team.

Ms Godwin—I do not believe so. We would regard it as a normal part of our responsibilities in providing advice to a review of that sort.

Senator KIRK—Did any of the panel of legal organisations that we were referring to earlier, including the AGS, provide legal services or advice to the department in order to assist the review team? Was any external legal advice sought to help departmental officers to assist?

Mr Storer—No, I do not believe so.

Senator KIRK—Can we get a copy of the report?

Mr Storer—No, not from us.

Senator LUDWIG—We have tried A-G's and they said no.

Ms Godwin—It is a matter for the Attorney-General's Department.

Mr Storer—As you will recall, Senator, you asked this at previous hearings and we gave an explanation—it is for the Attorney-General's Department.

Senator LUDWIG—We tried A-G's and they said no as well.

Senator KIRK—We thought we would give it a go.

Senator LUDWIG—Do you have a privacy policy?

Mr Farmer—We cannot tell you.

Senator LUDWIG—It is too private. You are turning into ASIO on me!

Ms Godwin—Can I ask for clarification? We are clearly bound by the privacy legislation and we do have references to privacy and so forth in things like the code of conduct.

Senator LUDWIG—I understand that. Usually, in departments such as yours you might put out a booklet which explains the Privacy Act or you might have an officer who deals with the Privacy Act on behalf of the department or, more generally, you might encourage guidelines as to how officers should act in relation to the handling of documents and the like. I would expect that, as part of your standard operating procedures or within your guidelines in various areas, you would have privacy issues dealt with. I was interested in the broader area.

Mr Moorhouse—Privacy matters are dealt with through our instruction to staff in association with values and conduct. To a large extent, privacy issues are so fundamental to the work that we do that they form a basic part of our training of our staff. They are not the subject of a separate instruction but are included in our staff training and our staff instruction relating to values and conduct.

Senator LUDWIG—Could the committee have a copy of that instruction to staff in relation to privacy?

Mr Moorhouse—Yes, we will provide that.

Senator LUDWIG—Thank you. Do you have a policy in relation to media access to asylum seekers and the like?

Ms Godwin—There has been a long-standing policy in relation to media access to detention centres and asylum seekers, and that is that generally it is only agreed to in very limited circumstances for privacy reasons. Generally, that is discussed with media when they seek access. Media have had access to detention centres and other places but the requirements around privacy are always discussed in those circumstances.

Senator LUDWIG—Is there a document that relates to how Immigration officials are to deal with access by media to asylum seekers?

Ms Godwin—It works in two ways. One is that if an individual seeks access to the media then that happens, obviously. People ring up media outlets from detention centres, write to them and so forth. We do not limit that. If a media outlet seeks access then that is usually handled by our public affairs area because all media contact is managed through that part of the department.

Senator LUDWIG—Are you familiar with the ABC's *Media Watch*, which ran a story on DIMIA—I suspect it has run more than one—in relation to this area?

Ms Godwin—I am familiar with the program; I am not sure whether I am familiar with the precise item that you are referring to.

Senator LUDWIG—I will not go to it, then. Do you have specific rules about what journalists can and cannot access—detention centres and the like? Or does the request come in and you deal with it on an ad hoc basis?

Mr Storer—No, we do not have specific rules about specific journalists. As Ms Godwin said, what we—

Senator LUDWIG—More generally, journalists. I should not say specific journalists.

Mr Storer—With regard to the rules we have relating to any journalist contact with detention centres or the department, in any way, and seeking access to the detention centres,

as Ms Godwin said, primarily we are concerned about the privacy of the individual people in those centres. There are also issues related to their families—privacy in terms of family members who may still be overseas and so on. We always take that as our primary concern, and we seek to negotiate with the media, in contact with the minister's office and others, about the purpose of wanting access to such people and privacy, given all these things, and discuss with them a sensible arrangement so their concerns, the government's concerns and the individuals' concerns can be accommodated.

Senator LUDWIG—What about the department of immigration—you chair the People Smuggling Task Force at the moment, don't you?

Mr Storer—Here is Mr Chair himself.

Senator LUDWIG—Mr Killesteyn, you chair the People Smuggling Task Force, don't you?

Mr Killesteyn—Yes, I do; I have the pleasure of chairing the People Smuggling Task Force.

Senator LUDWIG—Are there rules in relation to the media and contact by journalists?

Mr Killesteyn—No specific rules are laid down by the People Smuggling Task Force. Essentially, it is driven by the particular circumstances of the incident as we are seeking to manage it. The particular instance you are probably referring to is the question of the Indonesian nationals who were found on Ashmore island a couple of months ago.

Senator LUDWIG—I was leading up to it. How do you deal with it? Perhaps you could explain it, because it seems to us—at least to me and that is why I am asking the question—that there is a standard response that is going to be forthcoming from the People Smuggling Task Force about this issue of unauthorised boat arrivals and the like, but you say there is not.

Mr Killesteyn—I work for the government; I do not work for the media. In that particular instance, the concern of the People Smuggling Task Force was, firstly, to ensure that the persons that were found on Ashmore Reef were dealt with as illegal arrivals and taken into custody and, secondly, to secure the safety of the people who were involved in that operation. People from Customs and Defence were involved and my primary responsibility was to ensure that they were focused on the task of securing the incident rather than doing anything else.

Senator LUDWIG—I understand that, and that should be your primary focus. But, in relation to media requests, if they have an interest in the particular area, is there a rule or a caveat that you put on them if they ask for access or information about unauthorised boat arrivals?

Mr Killesteyn—It is the same issue that Ms Godwin has already covered. We are concerned about the privacy of the individuals. I think you have to accept that, if they are asylum seekers fleeing persecution, our responsibility is to ensure that they have an appropriate opportunity to present their claims and to ensure that there are no incidental issues that arise as a consequence of the person's identity being published, which may result, for instance, in surplus claims for asylum. They are the broad parameters that we are managing in relation to the arrival of illegals.

Senator LUDWIG—So, if the media make an inquiry to the task force about unauthorised boat arrivals, you do not have a caveat about, for argument's sake, their publishing the full response by DIMIA?

Mr Killesteyn—I am not exactly certain of the particular issue that you are raising here.

Senator LUDWIG—That is a hypothetical. It is a common thing that happens, and I am sure you are familiar with it, where you say to one media outlet, 'I'll provide you with a response only if you undertake to publish the full response.' That is a standard phrase. I was wondering if you use it.

Mr Killesteyn—That was the nature of the response we gave to *Media Watch* at the time, yes.

Senator LUDWIG—Is that the policy you continue to have?

Mr Killesteyn—In this particular instance, yes, because there was a good deal of misinformation and inappropriate criticism of the action that was taken at the time in that particular incident at Ashmore Reef, with suggestions that the People Smuggling Task Force was deliberately seeking to avoid the attention of the media. That was not the case. The case was simply that we were seeking to manage the incident and secure the safety of the individuals involved in that particular operation. To divert the attention of Customs officials as well as Defence officials to give access to the media at that time was not an appropriate response at that time.

Senator LUDWIG—So it is fair to say that was a response in relation to that situation but not a standard response that you would always adopt?

Mr Killesteyn—I would look at it on a case-by-case basis.

Senator KIRK—I would like to get clarification on the long-term detention strategy for Melbourne, given on pages 52 and 72 of the PBS. Perhaps we should have a discussion.

CHAIR—Witnesses, having had some consultation on that matter we will move on to outcome 1, Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people, and output 1.1, Non-humanitarian entry and stay.

[10.12 a.m.]

Senator BARTLETT—I refer to the new aged parent visa, under the title 'Contributory category'. Do you have any updated statistics on the uptake of that?

Mr Rizvi—Under the new contributory aged parent category, as at the end of April this financial year we had issued some 2,262 visas. At this stage we are projecting that overall possibly around 3,000 visas in that category will have been granted by the end of the financial year.

Senator BARTLETT—Is that roughly in accordance with your expectations or projections?

Mr Rizvi—It is slightly lower than our initial projections.

Senator BARTLETT—What were you anticipating—4½ thousand?

Mr Rizvi—That is right; 4½ thousand is what we were anticipating.

Senator BARTLETT—Is there any ability to use the shortfall to apply to the queue in the non-contributory parent visa category?

Mr Rizvi—That would be a matter that we would have to go back to government on.

Senator BARTLETT—So you cannot do it without a change of policy or regulation?

Mr Rizvi—It is not a regulation change; it is a decision of government as to the allocation between those two categories.

Senator BARTLETT—And there has not been any decision along those lines?

Mr Farmer—That is correct.

Senator BARTLETT—I realise it is still slightly early days, but are you anticipating or doing anything to increase the uptake of this—any extra promotion—or have you pretty much done all the promotion and information awareness raising?

Mr Rizvi—We have certainly got a lot of information out there, and certainly the visa is well known in the local community now. The level of applications that we got in the category to the end of April this year was 4,800 applications. What we are doing is going back to sponsors and applicants to make sure that they complete all their processing as quickly as possible. We are finding that it is taking a bit longer to complete all the health processing and a bit longer for people to make the relevant payments. If that could happen faster, I think we could certainly issue more visas.

Senator BARTLETT—Would you expect that we are likely to get the same shortfall in the following year, or is it too early to tell?

Mr Rizvi—I think there will be two countervailing factors there. One will be what happens with the application rate. If the application rate remains at current levels then, yes, we would expect a much higher level of visa grant in the contributory parent category next year because the cases that we are chasing up right now will start to flow through in the early months of next year.

Senator BARTLETT—What is the size of the queue in the pipeline in the old parent visa category?

Mr Rizvi—As at the end of April this year, the pipeline for the original parent categories, both onshore and offshore, was 20,480. Of those, 15,320 had been processed to a queue date and had been given a queue date.

Senator BARTLETT—What is the total annual intake currently?

Mr Rizvi—The total annual intake that was set by government this year was 4,500 in the contributory category and 1,500 in the non-contributory category.

Senator BARTLETT—And we have roughly 15,000 with a date?

Mr Rizvi—There are 15,000 with a queue date in the original category, yes.

Senator BARTLETT—So there would be people there with a date 10 years hence?

Mr Rizvi—The date that they are given is the date on which they met the requirements. As we need to, we shift that queue date so that there are enough cases being processed to deliver the program the government has decided upon.

Senator BARTLETT—But the bottom line is that there are currently 1,500 in that category and roughly 15,000 who have been processed?

Mr Rizvi—That is correct.

Senator BARTLETT—Another matter which I think is in this category is the new regulations flowing on from the main legislation that was passed very cooperatively by the Senate a little while back. What things have been done since then to put into place implementation mechanisms? Do they have a start-up date from 1 July?

Mr Rizvi—We have done two main things. One is to provide information and awareness raising for migration agents about the new legislation. The second thing that we have been doing is preparing the regulations that flow from that legislation. At this stage we anticipate those regulations being introduced from 1 July this year.

Senator BARTLETT—Are there going to be seminars, information packages or extra resources provided to migration agents or to MARA or MIA to raise awareness about these things?

Mr Rizvi—We are undertaking awareness raising activities at present and we have developed some information that we are making available through the MARA and we will be continuing to run seminars. In addition to the seminars we have been undertaking Mr Waters has just advised me that we have actually been in touch via email with every migration agent that is registered at the moment to alert them to the legislation.

Senator BARTLETT—So you have got an email for every migration agent?

Mr Rizvi—I think via the MARA we have access to that.

Senator BARTLETT—How many have we got now—do you know?

Mr Waters—We have approximately 3,300 registered migration agents currently. We have obtained from the MARA some 3,278 email addresses, the assumption being that the remainder may not have an email address.

Senator BARTLETT—At least 20 people out there have realised that it might actually save them some work not having an email address. It is a fairly substantial package of changes that are being put in place. How recently has that email gone out?

Mr Waters—That would have gone out shortly after the legislation was passed. It is hard to be specific but my guess would be within a fortnight of that legislation being passed. We had of course prepared this in advance.

Senator BARTLETT—Has there been much feedback? Do you get all those people hitting the reply button and coming back to you?

Mr Waters—No, we do not. We have in fact had a fair bit of feedback. One of the things that has struck me about it is that a lot of that feedback has been very positive.

Senator BARTLETT—When you say ‘a lot’, would you say the majority?

Mr Waters—I would certainly say the majority.

Senator BARTLETT—What has been the nature of the positive aspects?

Mr Waters—Those agents who have come back with positive feedback have been concerned that some of the worst agents who have been abusing the system have in fact been trudging their reputation through the mud.

Senator BARTLETT—And the negative feedback? I do not like focusing on the negative but one should be—

Mr Waters—The negative feedback is: isn't this too draconian?

Senator BARTLETT—One issue that has been raised with me is in terms of non-for-profit migration agents—I think that is the appropriate terminology—and the costs not just of the registration but also of the things like having to take out advertisements, for example. I have had raised with me that community legal centres have people who offer to give migration advice but the cost of registering plus the cost of advertising what they are doing as volunteers are disincentives. Is that an issue that you are aware of and has anything been done to try to address that?

Mr Waters—Certainly it is an issue, which I believe the MARA has very substantially addressed through its registration fee arrangements. Not-for-profit agents, generally speaking, pay about 10 per cent of the fee which is applied to commercial agents.

Senator BARTLETT—What is the registration fee now?

Mr Waters—A reregistration fee is \$1,050. The initial registration is higher—\$1,700 and something, from memory—whereas for a not-for-profit agent it would be \$105 rather than \$1,050.

Senator BARTLETT—And when people apply to register they have to put an advertisement in the newspaper.

Mr Waters—There is a need for notification and, again, one of the changes which came out of the last industry review—not in the last tranche of legislation but the previous one—allowed agents for the first time to take out an advertisement as a group. This was seen very much as assisting the not-for-profit group because, generally speaking, they tend to be a larger number of agents within the same organisation. In commercial practices it varies from one-person agents through to larger agencies. Certainly the not-for-profit agencies figure very heavily in the larger group.

CHAIR—Are there further questions on migration and temporary entry or visas in this 1.1 area?

Senator KIRK—On page 76 of the PBS there are some regional migration initiatives. I want to get some more detail. It mentions that the existing retiree visa will be replaced with a state government sponsored retired investor category. Can I have some more information on that?

Mr Rizvi—The major objective of this change is to try to achieve a dispersal of the intake which more suits the needs of each individual state. We have issued a discussion paper on the changes and we have been consulting with each state government on them. We have had good feedback from most of the states now. Some of them have made some further suggestions on how we might modify the proposal. We are putting all of those together now into a submission for the minister. Subject to the minister's agreement to the changes that the state

governments have proposed, we would be hopeful of introducing the new visa from 1 November.

Senator KIRK—What are the geographical areas that are covered? Is it the non-major capital cities as well as rural and regional areas? Is there a list of these?

Mr Rizvi—The discussion paper that went out essentially indicated that it would be up to each individual state to decide what areas of its state it would sponsor people for and how it would proceed on that. One or two of the smaller states have proposed that there should be a differential arrangement so that the smaller states and regional areas of Australia would be advantaged in accessing these people relative to the larger metropolitan centres. That is one of the proposals they have put forward which we are currently going through.

Senator KIRK—Is the discussion paper available?

Mr Rizvi—Subject to the minister's clearance, we can provide a copy of that paper.

Senator KIRK—Thank you. You say you have feedback from the state governments in relation to the discussion paper and you are now formulating something to put to the minister.

Mr Rizvi—Most states have now come back to us?

Mr Waters—Yes.

Senator KIRK—So how will this scheme differ from the existing retiree visa?

Mr Rizvi—There will be two main differences. One will be the requirement to have a state government sponsorship in order to achieve a dispersal which is more in line with the needs of each state. The second is that there will be more safeguards to ensure that the entry of these persons does not impose a cost on Australia's health system.

Senator KIRK—How will those safeguards work?

Mr Rizvi—That will work through a mechanism whereby the applicants will have to pay a health charge for any potential usage of relevant health services that might occur. That will be a standard charge, so some persons will not use that level of services while others may well use much more.

Senator KIRK—Has the amount of the health charge been determined yet?

Mr Rizvi—The discussion paper suggests a charge of \$8,000 over four years.

Senator KIRK—That is a fixed amount regardless of age or health conditions or what have you?

Mr Rizvi—That is correct. We considered doing something like that but eventually it just became so complicated—it is just too hard to anticipate those sorts of things.

Senator KIRK—Is there any age limit on this new visa?

Mr Rizvi—Yes. The person must be over 55 years of age.

Senator KIRK—The sponsorship by the state government: is that a money sponsorship that the state government will be putting into it or is it just called a sponsorship?

Mr Rizvi—That will essentially be a sponsorship to the effect that they would want these people to settle in a particular region of their state. That is the main consideration.

Senator KIRK—Once we see the discussion paper that will certainly give us some more information, and hopefully by November we will have more information about how it is operating. Can you tell us when the Sydney skill shortage list will be finalised?

Mr Rizvi—We are currently undergoing consultations with the New South Wales state government on the shortage list that they wish to use. They have asked us for data on the Sydney labour market. The Department of Employment and Workplace Relations has provided that data to the New South Wales government. My understanding is that the New South Wales government is now considering that data and will advise us in due course of the outcome of their considerations.

Senator KIRK—So it is really for the New South Wales state government to make a decision about the skill shortages and then advise you? Is that what you are saying?

Mr Rizvi—It is a question of balancing, on the one hand, the concerns of the New South Wales government about congestion and overpopulation in Sydney with, on the other hand, the needs of the labour market in Sydney.

Senator KIRK—Will that be verified by the Department of Employment and Workplace Relations here?

Mr Rizvi—The Department of Employment and Workplace Relations has certainly provided the background data. At the end of the day, the New South Wales government has to decide how it wants to proceed on that matter.

Senator KIRK—Do you have any sort of timetable as to when this is likely to be finalised?

Mr Rizvi—It is very difficult to say. The matter is, in that regard, out of our hands. What we are proceeding to do, however, is put together the underlying legislation and framework to make that happen, and we are aiming to have that introduced on 1 November. Hopefully by that stage we will have the input from the New South Wales government.

Senator KIRK—Page 76 talks about there being a separate minimum salary level for sponsored skilled migrants to Sydney for particular visa categories. Can you advise us which visa categories that will apply to?

Mr Rizvi—That will apply to two visa categories. It will apply to the long-stay temporary business visa, subclass 457, and it will apply to the permanent resident Employer Nomination Scheme visas.

Senator KIRK—I have some questions on the new criteria for skilled visas—136, skilled independent, and 861, onshore skilled New Zealand citizen. When did the department decide to introduce the new point scale for these visa categories?

Mr Rizvi—I think the pass mark increase was introduced some time in April, but I may have to take that on notice. I think it was on 14 April, but I cannot be precise.

Senator KIRK—My notes do indicate that it was 14 April. Sorry, I just read ahead. You are correct.

Mr Rizvi—If I might clarify that, I think it was 14 April for the offshore subclass 136. For the onshore subclass, the government has decided to have a transitional arrangement whereby

the pass mark increase will not take effect until early next year. That is so overseas students who are currently studying in Australia who had an expectation of being able to migrate will not be affected. It will only apply to people who apply in that onshore visa class next year.

Senator KIRK—It seems that the new point scale was introduced as a matter of urgency. I understand it was announced on 1 April and then came into effect on 14 April. What was the urgency? Why was it seen to be a process that needed to be expedited?

Mr Rizvi—There were two main reasons for the pass mark increase. One related to the question of managing the level of demand. Application rates were growing strongly in this category and we had a level of demand in excess of the number of places that were available. The second reason was that it was consistent with opening up greater opportunities for the smaller states and regional Australia to access a larger portion of the intake. The pass mark increase has to be seen in the context of the new skilled independent regional visa. By changing the pass mark from 115 to 120, we have effectively opened the door wider for skilled migrants to settle in the smaller states and in regional Australia.

Senator KIRK—How long is the waiting list for skilled migrants who are looking to locate into Australia?

Mr Rizvi—There is a range of skilled migration categories, and the processing time for each of those varies. I will go through the major ones. For the employer nomination scheme, which is where an employer has found an employee from overseas, a normal processing time would be of the order of three to four months. The main delays tend to be associated with checking health and character. For the onshore students skilled migrants category—that is, where onshore students are converting to permanent residence on the basis of their skills—the processing times at the moment are about five months. For the offshore skilled migration categories—the points tested ones—the processing times are at the moment around 10 or 11 months, but we are hopeful of getting those down further.

Senator KIRK—What about non-skilled migration—the retiree type category?

Mr Rizvi—We have discussed the parents issue with Senator Bartlett, and there the time people have to wait is more related to the number of places. I think the answer to that question would be quite complicated. For spouses—that is partners—the median processing time for offshore partner visas is around six months; the 75th percentile processing time for offshore partner visas is around 10 months.

Senator KIRK—So it is the parent visas that entail the very long wait—is that correct?

Mr Rizvi—Yes, certainly parents in the non-contributory category have a substantial wait. For parents in the contributory category, the wait is not as long. It really does depend on how quickly they can do their health and character checks and how quickly they can deposit the money relating to the charges that apply, so the processing times for them could be as short as five or six months. For some of them it is getting out to nine months.

Senator KIRK—So the \$65,000 charge is for those who are contributing?

Mr Rizvi—Yes.

Senator KIRK—And the non-contributory?

Mr Rizvi—The non-contributory will be longer depending on the number of places available and how far towards the back of the queue people are. The current queue date for the offshore non-contributory parent category is 11 September 2000.

Senator KIRK—That is the date you are processing at the moment?

Mr Rizvi—Yes. Anyone who is queued before that date would be being processed now.

Senator KIRK—So is it the case that people could be waiting up to 10 or 11 years if they are in that category? If you are now processing applications that are dated June or July 2000—

Mr Rizvi—September 2000, and we are processing those people now in May 2004, so certainly those people will have waited at least four years.

Senator KIRK—To start processing it.

Mr Rizvi—That is right.

Senator KIRK—I understand that when inquiries are made of the department, people are told there could be a wait of up to 11 years. I had a constituent who was advised of that, so I wanted to clarify it. They have only recently submitted their application.

Mr Rizvi—I cannot vouch for the particular case or what our officer may have said. What we tend to do is encourage people who have already applied to monitor the parent queue date calculator on our web site. That enables them to calculate the approximate wait.

Senator KIRK—Can you advise us of the agencies or organisations that undertake the qualification and skills assessments for the 136 and the 861 visas that I was talking about earlier?

Mr Rizvi—The skills assessing bodies appointed to undertake those skills assessments are appointed based on advice from the National Office of Overseas Skills Recognition, who consider the ability of those bodies to represent and properly assess those applications. If those bodies are found by NOOSR to be acceptable, a recommendation is made to DIMIA and that recommendation will go forward to the minister.

Senator KIRK—How many agencies or organisations do you have at the moment undertaking qualification and skills assessments?

Mr Rizvi—How many skills assessing bodies?

Senator KIRK—Yes.

Mr Rizvi—If I might, I will take that on notice. It would be a number less than 50 but greater than 30. If I can take it on notice I can get you the precise number.

Senator KIRK—That is fine; take it on notice. Is it the case that an applicant has to pay a fee for the assessment?

Mr Rizvi—That is correct.

Senator KIRK—What amount is that?

Mr Rizvi—That varies from assessing body to assessing body. Some assessing bodies charge as little as a few hundred dollars, some assessing bodies charge a great deal. I

understand the engineers have a very hefty charge, but their assessment process is also very extensive.

Senator KIRK—So the agencies or organisations get to set the fee for that?

Mr Rizvi—They set the fee based on cost recovery, yes.

Senator KIRK—Is it the case that a person is not able to submit an application for one of these visas without this review assessment?

Mr Rizvi—They are required to nominate a skilled occupation and to demonstrate that they have been to a skills assessing body and received a result from them, whether it is positive or negative, to lodge an application. If the result is negative, they can use that to trigger a review right if such a review right exists in the particular visa class that they are applying in.

Senator KIRK—When were the assessment agencies that we have just been discussing advised of the change in the point scale?

Mr Rizvi—They would have been advised at the same time as general applicants were. The change in the pass mark does not actually affect the assessing bodies.

Senator KIRK—Because they are just providing information about the relevant skills or qualifications?

Mr Rizvi—They simply make a decision on whether or not a person's skills meet Australia's standards.

Senator KIRK—Are you aware of any examples of where a potential applicant who could well have been eligible for one of the visas under the new points scale was unable to submit their application for consideration under the previous points system because they could not get their skill or qualification assessment done in time?

Mr Rizvi—I am not aware of any specific cases but, yes, that could have happened. However, I would point out two things. The first is that in the information that we provide on these visa categories we make it very clear very early on and in bold letters that pass marks are subject to change at any time and applicants should at all times be aware of that. The second is that at the time as the pass mark increased the government introduced the new skilled independent regional visa, which actually opened up opportunities for the same people as long as they were prepared to settle in regional Australia or in one of the smaller states.

Senator KIRK—So you are saying that it has been made harder in one category but this other category has been opened.

Mr Rizvi—In essence, it has been made harder to settle in metropolitan Australia and it has been made easier to settle in regional Australia and in the smaller states, yes.

Senator KIRK—From what you have just said, I assume there was not any waiver granted by the department for those persons who might have been caught between the old pass mark and the new pass marks system?

Mr Rizvi—That issue comes up from time to time. What we have found is that it is extraordinarily difficult to manage the array of circumstances that could arise. It is much easier to make clear in the information at all times that pass marks can change at any time,

and then to make the pass mark change and draw the line. Doing it in any other way makes it extraordinarily messy.

Senator KIRK—So the answer is no, there has not been any waiver?

Mr Rizvi—That is correct.

Senator Vanstone—But, Senator, you would not want a waiver, because a waiver might mean that people who would otherwise go to South Australia under this new system would go somewhere else. So you would not want to be on record as having sought a waiver.

Senator KIRK—Indeed. I was just asking the question, Minister.

Senator Vanstone—I get the drift.

Senator KIRK—I am very interested in the potential for applicants to go to South Australia, as you would be.

Senator Vanstone—Yes, we are doing a lot. If you speak to the universities—if you have not already spoken to them, which I am sure you have as you came from one—you will find these new visa arrangements allow South Australia to sell itself internationally as an education place with tremendous opportunities.

Senator KIRK—That is excellent. Just on that, in relation to overseas students studying in Australia, was there any change to the points scale in relation to studying and then wanting to stay in Australia under the skilled category?

Mr Rizvi—A points test does not apply for students coming to Australia to study. They are unaffected. It applies to them when they complete their studies and wish to apply for migration. The pass mark for that group has gone up. But, as I mentioned earlier, the minister decided, in order not to have that pass mark increase the impact on students who were going to complete their courses this year, to postpone the pass mark increase to early next year.

Senator KIRK—Is it effective from 1 January next year?

Mr Rizvi—No, I do not think that it is 1 January. I think that it is a date in April. It may well be 14 April. I will take that on notice. The idea is that we need to give them time to get their academic transcripts and things together and apply.

Senator KIRK—Are you aware of the article in the *Australian* on 18 May reporting migration agents' concerns that recent changes to the business migration scheme could lead to a loss of potentially \$700 million to the nation?

Mr Rizvi—Yes, I am aware of that.

Senator KIRK—Do you consider this to be an accurate report?

Mr Rizvi—We consider it highly inaccurate.

Senator KIRK—Could you elaborate on why you think it is highly inaccurate?

Mr Rizvi—I would put forward a number of reasons. The first reason is that, under the scheme that existed previously, we had a situation where two things were happening. One was that the number of business migrants entering Australia, who were successfully getting into business, was declining and that was causing us concern in that we were not reaping the flow-on benefits, the kind of \$700 million that the agents were talking about, because the success

rate was declining. The second issue of concern that was emerging was that a rising percentage of business entrants under the old scheme were not making any genuine attempts to get into business. We were finding situations where the business migration visa holder would send their spouse or their children to Australia to perhaps access various government services and benefits and remain running their business overseas. So the benefit to Australia was not being accrued.

Under the new arrangements, there are three advantages over the old scheme. The first is the applicant only gets a temporary residence visa in most instances. They can get permanent residence visas, in certain instances immediately, but mostly they will get temporary residence visas which mean they are obliged to then set up a business in Australia in order to get permanent residence. The second reason we made the change was to achieve a better distribution of business migrants across states by enabling a greater emphasis to be placed on sponsorship. The third was that, by linking the applicants directly with state governments, we believe that they will be able to get better support in terms of business arrangements and opportunities within each state to enable them to more readily get into business.

In terms of the numbers that were being reported, yes, it is true that, in the couple of months immediately after the changes, application rates were low. We believe that was related to, firstly, a very large surge in applications in the month immediately prior to the change and, secondly, people getting used to the new arrangements. Thirdly, the new arrangements required them to get a state sponsorship and that took time. We have found that, through the year, application rates have been steadily rising. Based on the advice from state and territory governments which are involved in this area, we would see application rates and certainly grant rates catching up to the previous levels probably during the next financial year.

Senator KIRK—Could you provide us with the figures—some statistics to show us what has occurred in the way that you have described it?

Mr Rizvi—We can provide that. I emphasise that the figures we can provide will relate to applications that have been lodged with us whereas the critical figure is the number of people that state governments are sponsoring. The advice that we are getting from the states is that they are sponsoring significant numbers of people but it is taking those people some time to lodge an application with us.

Senator KIRK—So you do not receive any figures from the state governments on the lodgments with them?

Mr Rizvi—We receive informal advice but we do not at this stage get regular statistics. That is perhaps something we ought to look into.

Senator KIRK—That would be helpful. Could you take on notice the applications prior to the introduction of the new scheme so we can see the ebbs and flows. Thank you.

Senator LUDWIG—The other area I was interested in inquiring about is the refugee school kits. Does that come under this area?

Ms Godwin—It comes under output 1.2.

CHAIR—We have finished output 1.1. Thank you. We will move to output 1.2, Refugee and humanitarian entry and stay.

[10.51 a.m.]

Senator LUDWIG—You advised us at the last estimates that 8,453 TPV holders had applied for further protection, of which 5,569 had applied at the 30-month period. Can you provide us with the current figure?

Mr Hughes—Senator, which figure are you specifically seeking?

Senator LUDWIG—The number of those holders of TPVs who have applied for further protection. You can run down the lot, if you like.

Mr Hughes—Virtually all of them have applied for further protection.

Senator LUDWIG—I imagine that they would. Perhaps you can give us the figures for the total number of TPVs that are currently on your books and those that have applied at the 30-month period. And, by a process of elimination, how many have not applied.

Mr Illingworth—At the moment there are 9,010 people who have been originally granted a temporary protection visa. Of these, 345 have not made a further protection visa application. There are 8,634 who have.

Senator LUDWIG—Are they all within the same cohort? Is that from a certain date or are they from different dates?

Mr Illingworth—They are at different dates. Those figures are current as at 14 May so they capture every person who was granted a temporary protection visa since the introduction of the scheme in 1999 until 14 May.

Senator LUDWIG—How many have been granted in the last four months, or since the beginning of this year or something? How do you express your figures? Do you do them by month?

Mr Illingworth—We can give you the figures for this financial year as at 30 April. There have been 146 grants of temporary protection visas.

Senator LUDWIG—What happens as a consequence to those who have not applied? They do not have a TPV and they have not applied for one.

Mr Illingworth—This is temporary protection visa holders who have not made a further application—the 345?

Senator LUDWIG—Yes.

Mr Illingworth—They hold a temporary protection visa which has an expiry date. After that visa reaches that date it would cease and, under the Migration Act and regulations, there would be consequences.

Senator LUDWIG—Do those 345 all have different finishing dates?

Mr Illingworth—They will all have different dates on which their individual visa will reach the three-year point.

Senator LUDWIG—Of the total number of TPV holders who have applied for further protection, how many have been processed and granted further or permanent protection?

Mr Hughes—At this stage there have been about 1,250 persons finalised, of whom 200 have been granted further protection.

Senator LUDWIG—So there are 1,250 who have been processed and 200 whose applications have succeeded. Is the remainder those who have failed? How do you express it?

Mr Hughes—Yes. The others have been found not to require further protection. I should add that that figure somewhat understates the reality, because for those who are to be approved there is further character checking involved which can take some time. So there are some hundreds of further decisions, which are expected to be positive, which I guess will be finalised as soon as the character checking procedures are completed.

Senator LUDWIG—Of those who have failed and are not subject to character checking, do you keep a statistic on those who apply for merits review in the RRT?

Mr Hughes—Yes, we do.

Senator LUDWIG—How many have applied?

Mr Hughes—Virtually all of them have applied for merits review.

Senator LUDWIG—That would be the 1,050?

Mr Hughes—That would be the difference between—

Senator LUDWIG—Less those few who you might still be waiting for—

Mr Hughes—It would be the difference between the 1,200 finalised and the 200 granted.

Senator LUDWIG—And less those who might have wandered off.

Mr Hughes—Some may have left the country of course, but of those who want to pursue remaining in Australia my understanding is that virtually all have applied for merits review.

Senator LUDWIG—Perhaps you could take it on notice to get a specific figure, if you would not mind. Have any of the RRT decisions in relation to those cases been finalised?

Mr Hughes—They have.

Senator LUDWIG—How many is that?

Mr Hughes—They have finalised 150 review decisions.

Senator LUDWIG—Do you have a breakdown into those that have been set aside and those that have been—

Mr Hughes—At this stage 20 have been affirmed and 130 set aside.

Senator LUDWIG—Do the figures show country of origin? Is there a specific way in which you might check those figures to see if a pattern emerges from them? I guess it is also a way of checking whether your original processes were right—whether there was a cohort from a particular country that you might have missed or something.

Mr Hughes—Most of them relate to people from Afghanistan. We can get a more detailed breakdown for you if you wish. We have had an analysis of those decisions. Our understanding from the decisions is that the differences largely relate to some changes of country information that occurred in relation to Afghanistan in the latter part of last year.

In other words, there was certain country information about Afghanistan at the time on which many of the department's earlier decisions were made. There was a shift in relation to conditions in southern parts of Afghanistan in the latter part of last year and we think that has influenced the RRT decisions and the RRT set-aside rates since our initial decisions. There are some other indications of different judgments being made in certain cases, but we largely think it is to do with change of country information in the latter part of last year.

Senator LUDWIG—Thank you, and I would not mind that earlier information that you said you could make available to the committee as well. You indicated that there was, in my words, 'a review' but you might have said something else; I missed the descriptor in relation to those Afghan matters. Were they the Afghan matters that you had a look into to see what the pattern was or what had to be done?

Mr Hughes—Yes.

Senator LUDWIG—Is it a report?

Mr Hughes—It is not a report. It is just an internal analysis to see whether there is anything systemic to be learnt from the RRT set-asides or whether it was just a case of changing country information, which often happens.

Senator LUDWIG—What was the outcome of that?

Mr Hughes—We believe it was, as I said, largely changing country information.

Senator LUDWIG—Have you changed your assessment process accordingly?

Mr Hughes—We work off the same country information, and it has been interesting that since the country information changed the departmental rate of positive refugee determinations has gone up somewhat.

Senator LUDWIG—So you have been able to track that back and identify that when the country information changed your assessment also changed as a consequence?

Mr Hughes—That is correct.

Senator LUDWIG—In other words, there is the gap between your original assessment of those people under the earlier country information and their going to the RRT, when the country information had changed. The RRT then used the later country information.

Mr Hughes—That is correct. It is picked up at review.

Senator LUDWIG—Is it common practice to then have a look into the issue when something like that happens?

Mr Hughes—We are constantly updating country information for all countries that are in the business of making refugee assessments and we are constantly looking at the best information available from the best sources, and we share it. We particularly draw on information from international bodies. The situations in countries change and decisions move as a result of that. Our information and, I think, the information available to the RRT moved at the same time.

Senator LUDWIG—In light of these decisions and those of the RRT, does the department consider that the assessment of over 3,600 Afghans on TPVs may need to be reviewed? In other words, do all of those ones need to be reviewed as a consequence?

Mr Hughes—I do not think there are any decisions that have been made that need to be revisited. The departmental decisions have all been appealed. The current caseload on hand is being assessed under the new country information.

Senator LUDWIG—So you do not intend to go back and have a look at the Afghan cohort?

Mr Hughes—That cohort will be taken care of through the review process as they have indeed already applied for review.

Senator LUDWIG—So the way you will deal with it is to leave them to go through the RRT process?

Mr Hughes—That is correct.

Senator LUDWIG—So some may not make it through as a consequence? So there might be a variation in the RRT decisions?

Mr Hughes—Some may not be affected by the new country information. That is the other issue.

Senator LUDWIG—That did cross my mind.

Mr Hughes—But the normal process is that if country information shifts and people are in the review process any issues that arise are taken up at that stage.

Senator LUDWIG—TPVs are not normally allowed re-entry, are they?

Mr Hughes—There are no automatic re-entry rights that come with a temporary protection visa.

Senator LUDWIG—How many times has it happened in the last 12 months that they have been granted a re-entry right? There is one that I know of. I understand the Prime Minister granted a re-entry right to a TPV holder recently. Is that the only one or is that the first one?

Mr Hughes—I would clarify that the minister granted the visa under the immigration act. That question is not as straightforward as it appears because a person who is on a temporary protection visa seeking to come back into the country could in fact seek that outcome in any one of three ways. One is, for example, to bring forward the time of consideration of their temporary protection visa or their application for a further protection visa in the hope of getting another visa, a permanent visa, which would enable them to come and go in the normal way. Secondly, a person on a temporary protection visa could leave the country and then make an application for a visa at some time that was convenient to them if they wanted to return. Thirdly, a person on a temporary protection visa could seek an arrangement which allowed them to leave and then return. The case I think you are referring to was the latter one. That is the only case that I am aware of that has been granted. It could be that some other TPV holders have left and returned on the other two bases that I mentioned, but I do not have any statistics on that.

Senator LUDWIG—Does the minister have a discretion to grant a re-entry right to a TPV holder?

Mr Hughes—There is not a particular discretion in relation to temporary protection visas but there are other provisions in the Migration Act that can be used.

Senator LUDWIG—So what provision was used in relation to Mr Saleem?

Mr Hughes—The special purpose visa.

Senator LUDWIG—Is that given a number?

Mr Hughes—I am sorry, the name, I think, was—

Senator LUDWIG—It is a special purpose visa under what section?

Mr Hughes—I am not sure we are talking about the same name there.

Senator LUDWIG—There might be two? What name have you got?

Mr Hughes—For privacy reasons I would rather not mention names—

Senator LUDWIG—No, I did not want to go there either.

Mr Hughes—If we are talking about a case that received some publicity as a person, a TPV holder, who had sought permission in advance to be able to return—

Senator LUDWIG—I think that is the same one. There has been no other granted?

Mr Hughes—Not in that particular way, that I am aware of.

Senator LUDWIG—What about in other ways?

Mr Hughes—As I said before, there could be some other temporary protection visa holders who have left and returned on the other two possible bases, but we have not kept statistics on that so I cannot say for sure whether there have been or have not been.

Senator LUDWIG—You would not keep statistics or you do not?

Mr Hughes—We do not. We have not particularly collected them, but it is possible that one or two other cases may have occurred.

Senator LUDWIG—Perhaps you could take that on notice and have a look at it and provide that information to the committee if it is not too difficult to research, and if there are privacy concerns use an alphabet letter or some descriptor. I do not need to know the names.

Mr Hughes—I will see what we can do but, because we have not formally kept statistics and it may have happened in one or two cases, it is just possible that we will not be able to answer one way or the other.

Senator LUDWIG—That is why I left the question a bit open-ended. See what you can do, please. The one that is of interest at the moment was granted to a special class visa—is that right?

Mr Hughes—A special purpose visa, it is called.

Senator LUDWIG—Is that the only application that has ever been made by a TPV holder for a re-entry right or are there other applications that have been made? What mechanism would TPV holders use to make an application?

Mr Illingworth—There is no formal application process as such, but the department from time to time receives requests from individuals. Sometimes it is not quite clear the purpose of the request, but it is more often in the form of asking if a shorter period of time can be set on their TPV to enable them to access a permanent visa. Under the regulations the holder of a temporary protection visa must normally hold that visa for a period of 30 months before being eligible to access a permanent further protection visa if they are owed protection. The department from time to time receives requests from individuals asking if a shorter period of time can be set, because there is a facility to do that.

Senator LUDWIG—How many requests have been made in the last 12 months? They might be made offshore as well, mightn't they? A TPV might have returned—

Mr Hughes—That is the second category I mentioned. A person might have asked to return. There may have been cases in the last few years where we have allowed a person to return, but we have not kept statistics on that.

Mr Illingworth—Since the introduction of the temporary protection visa arrangements, there have been a total of 62 requests made to the minister for immigration to set a shorter period of time within which the individual may be able to access a permanent further visa if found to be owed protection.

Senator LUDWIG—And then, having got that, they can re-enter? Is that how the flow works?

Mr Illingworth—There are a few steps. If they are successful, essentially that removes the 30-month waiting period which prevents immediate access to a permanent further visa. They would then need to obtain a further permanent visa, so they would have to be examined. If the request were acceded to, a further application would be assessed and decided and, if they were found to be owed protection, the 30-month waiting period would not apply to them and they would be able to access a permanent visa and with that the travel and re-entry rights that attach to permanent residents.

Senator LUDWIG—Is that what happened in relation to the one that was recently granted?

Mr Illingworth—No, it was the other.

Senator LUDWIG—In relation to both of those, are there criteria that the minister has to consider in taking either the first course or the latter course of bringing forward the number of months?

Mr Illingworth—I believe it is a public interest consideration.

Senator LUDWIG—So it is a discretion?

Mr Illingworth—It is not a discretion.

Senator LUDWIG—But it is a public interest test?

Mr Illingworth—It is a delegable power. The test is whether it is in the public interest.

Senator LUDWIG—What section is that under?

Mr Illingworth—That is in the regulations. It is in regulation 866.228(b).

Senator LUDWIG—And that is for both?

Mr Illingworth—No, that provides the facility under which individuals can have a shorter period of time than 30 months set so that they can access a permanent visa earlier.

Senator LUDWIG—What are the criteria for the other mechanism that you described, Mr Hughes, where the minister can grant the re-entry of a TPV?

Mr Hughes—That is in section 33 of the act, I believe. My colleague will bring in the act in a moment and we can tell you the criteria, but there are no detailed criteria, as I recall.

Senator LUDWIG—So how does the minister exercise that discretion?

Mr Hughes—There are no specific criteria. The minister can simply make a decision.

Senator LUDWIG—Is it fettered in any way?

Mr Hughes—There is a tabling requirement for decisions to issue special purpose visas.

Senator LUDWIG—Has that been tabled? Has there been any tabling in the last six months?

Mr Hughes—I cannot say in relation to other visas, but I understand that tabling has to take place within—

Senator LUDWIG—Usually six months, is it?

Mr Illingworth—Fifteen sitting days.

Mr Hughes—Fifteen sitting days—and that would occur.

Senator LUDWIG—So it has not occurred as yet but it will occur?

Mr Hughes—That is correct.

Senator LUDWIG—Is any legislative work in progress in this area to streamline it or assist in facilitating TPV holders who might want to re-enter or return?

Mr Hughes—There has been no change in the fundamental policy on that.

Senator LUDWIG—What about the TPV holders themselves—perhaps the Iraqi TPV holders? Is there any mechanism in place, a legislative solution, to provide a pathway to permanent protection for them?

Mr Hughes—There is nothing specific to Iraqis that is different from the whole class of TPV holders. The applications for further protection are being considered. I think when we spoke last time the issue was that we had not been making decisions on Iraqis because of country information issues and, since that time, we have commenced the process of doing it.

Senator LUDWIG—What about the overall cohort of TPVs, which include Afghans, Iraqis and the like? Is any legislation on the books to allow special class visas to be provided for them? Or is there any other mechanism—any work in progress?

Mr Hughes—That is a matter of government policy that government can consider at any time.

Senator LUDWIG—None that you are aware of specifically?

Mr Hughes—No specific legislation is being prepared.

Senator LUDWIG—I do not have to ask the minister, do I, Minister? I might get the same answer.

Senator Vanstone—You can be sure that if the government changes its policy in any of the areas of immigration, we will let you know.

Senator LUDWIG—I accept that. It is just that there were some recent reports, I think, media speculation—

Senator Vanstone—Yes, I read those.

Senator LUDWIG—I did not really want to canvass those specifically, but I thought that if there were anything legislative—

Senator Vanstone—I once thought that I would keep a record of all the misinformation in media reports that I saw in a range of portfolios since we have been in government. Frankly, I do not have the space for them all.

Senator LUDWIG—I do not want to dredge them up here and put them to you one at a time, for the same reason. If there is no legislative process in place, that usually answers my question in the sense that there is nothing on the books currently to deal with that issue of temporary protection visas.

Senator Vanstone—That is right.

Senator LUDWIG—How long is the time line for assessing TPV holders? Is there an average time that you take in assessing them?

Mr Hughes—I do not think that there is an average time. There have been particular issues with the processing times for temporary protection visa holders because of country information issues in relation to Afghanistan and also the fact that we had not made decisions for quite some time on Iraqi cases.

Senator LUDWIG—There are I think 4,000 Iraqi cases that are outstanding.

Mr Hughes—That is correct.

Senator LUDWIG—How long will it take you to complete those?

Mr Hughes—We have recommenced the processing steps that allow us to make decisions on Iraqis. It is always a bit slow starting off with a new case load because you have to reach a view on the claims and how they relate to new and changing country information. Once we have a good handle on how the decisions are going, we will be looking at processes to try to catch up for the fact that there has been that long period when we were not making decisions, and we will see whether we can finalise the case load in a shorter time than if we just worked through cases in the normal way.

Senator LUDWIG—Have you looked at obtaining any additional resources in that assessment area to speed up the process?

Mr Hughes—That would be part of the action we would employ but it is important to firstly get a handle on the resources that are required by getting an understanding of the way the decision pattern is going. But we are conscious of the fact that for the Iraqis there has been

a long period without a decision and therefore we would like, in some way, to catch up on that period.

Senator LUDWIG—Have they started yet?

Mr Hughes—Processing has started. There might be a couple of decisions that have been made now, but the process of interviewing has commenced.

Senator LUDWIG—Do you have an estimated date of completion?

Mr Hughes—Again, I would rather not say that until we see the pattern of the early decisions, because that does influence the processing time. But certainly it would be highly desirable if we could have the bulk of the TPV case load, apart from those more recent ones, decided by the end of next year.

Senator LUDWIG—So a few have already been assessed, have they?

Mr Hughes—A few of the Iraqi cases?

Senator LUDWIG—Yes.

Mr Hughes—Yes.

Senator LUDWIG—And what was the result there?

Mr Hughes—It would be a handful and it would be just very recently, so I do not have the numbers, although I have just been told there have been a couple.

Senator LUDWIG—Perhaps you could take that on notice and advise of the outcome in relation to those few, unless Mr Illingworth has them now.

Mr Hughes—In terms of recent decisions I think there has been one, and it is a grant. There had been some previous decisions on Iraqis who have left the country.

Senator LUDWIG—Perhaps you could have a look at that and get back to the committee if there is anything more you can add.

Senator BARTLETT—I have not heard everything that has been asked, so let me know if I am doubling up. The additional money that is being provided for settlement services was announced in the budget and comes under this section, doesn't it?

Mr Hughes—Settlement services would technically come under outcome 2.

Senator BARTLETT—But the decision to expand the humanitarian program comes under this one?

Mr Hughes—Yes, it does.

Senator BARTLETT—That is to come into play from 1 July—is that right?

Mr Hughes—Yes, it is.

Senator BARTLETT—To make sure my understanding of it is correct, is 13,000 now the total of the refugee and humanitarian offshore program?

Mr Hughes—Yes, the new total is an increase from 12,000 to 13,000 places. There was an internal adjustment to increase fully funded refugee places from 4,000 to 6,000 and to set the

special humanitarian at 7,000. That leaves us with a final 6,000 refugee places and 7,000 special humanitarian places in the program, for a total of 13,000.

Senator BARTLETT—So the assessments you are doing at the moment, such as you were mentioning with the Iraqis for TPV—and I presume some of those would be for another TPV and some would be for a permanent protection visa—would, if successful, be taken to be part of that 6,000?

Mr Hughes—They have already been counted.

Senator BARTLETT—So if they get renewed or a new visa—

Mr Hughes—It does not affect the 13,000.

Senator BARTLETT—So these are only brand new, never before issued type visas?

Mr Hughes—Yes.

Senator BARTLETT—What is the 7,000 broken down into? There is the special humanitarian program, women at risk and other categories.

Mr Hughes—The women at risk I think would largely come from the refugee program.

Ms Bicket—That is correct. The women at risk program counts against the refugee component and is nominally set at 10.5 per cent of the refugee component of the offshore program.

Senator BARTLETT—Do you reassess that at the end of every year and see if you have a shortfall?

Ms Bicket—That is one of the issues considered in the program settings—the size and composition of the program each year.

Senator BARTLETT—Within the refugee component of 6,000, is there already an expectation about the regions that those people will come from?

Ms Bicket—Yes. The government takes advice from a number of different sources, the primary one obviously being the United Nations High Commissioner for Refugees. The government announced that regional priority would be given to Africa and the Middle East and South-West Asia for next year's program. The minister, in consultation with the Minister for Foreign Affairs, ultimately agrees to the regional breakdowns and allocations to posts. We are in the process of reviewing those matters at the moment. No decisions by government have yet been made on that.

Senator BARTLETT—Do you take into account in determining not just the region but who you select from those various areas whether or not they have other family in Australia, for example, and things like that?

Ms Bicket—There are a number of factors that will ultimately influence the referrals to us, for example from the United Nations High Commission for Refugees. One such factor is the number or extent of family linkages or other linkages to Australia. That is in line with ordinary international resettlement practice, which obviously tries to have people settled where they have some link to that country.

Senator BARTLETT—Is there a ministerial instruction or guideline for selecting people for the refugee offshore numbers?

Ms Bicket—There are obviously criteria which are set down in the regulations. One criterion is the decision maker making an assessment that resettlement in Australia is the most appropriate solution. There is also guidance in the procedural advice manual for the program. We could certainly give you a copy of that.

Senator BARTLETT—Yes, if you could do that at an appropriate stage, that would be great. Does the other 7,000, the special humanitarian program, have any subcategories within it?

Ms Bicket—No. Those 7,000 are the subclass 202 special humanitarian program category. Within that, however, the government has also included a nominal allocation of 600 places for the possible onshore protection need for next year. As you will be aware, under government policy, there is a linkage between the offshore and onshore programs. The numbers that are granted onshore protection are deducted from the offshore special humanitarian program.

Senator BARTLETT—The onshore program is boat arrivals, air arrivals or valid visa?

Ms Bicket—Or community cases seeking protection visas, yes.

Senator BARTLETT—They come out of this special humanitarian program?

Ms Bicket—That is right, not the refugee component.

Senator BARTLETT—The people who have just been assessed on Nauru as being refugees—and I do not know if this is spilling over into 1.5 or 1.3 or what—have not actually been given a visa yet, as I understand it. If they are given a visa, would they come out of that 6,000 or that 7,000?

Ms Bicket—It will depend on what particular visa subclass they may be eligible for. The most likely outcome would be that they are eligible for visas within the refugee component and not the SHP component. Therefore, they are more likely to be counted against the refugee component.

Senator BARTLETT—So, if we take some of these Afghans from Nauru, they will be part of that 6,000?

Ms Bicket—That is right.

Senator BARTLETT—Some of the other people on Nauru—the Iraqis, for example—have been rejected. Is it open to them or for someone in Australia to apply for them to get a special humanitarian entrant visa?

Ms Bicket—People offshore can apply in any offshore category or visa, be it migration or temporary entry category or, indeed, for the special humanitarian category. There are no restrictions on people's capacity to apply. Whether or not they would be eligible would have to be assessed, obviously, on their individual circumstances.

Senator BARTLETT—But the eligibility criteria includes requiring someone in Australia to sponsor—

Ms Bicket—That is correct. In the special humanitarian program there would need to be a proposal from an Australian permanent resident citizen or an organisation in Australia.

Senator BARTLETT—What do they need to guarantee?

Ms Bicket—It is not a formal sponsorship; it is a proposal process. The proposer is offering to provide accommodation for the person and, on arrival, support and orientation to the entrant as well as paying for their travel to Australia and costs.

Senator BARTLETT—Do you know if any of the people on Nauru have put in applications for special humanitarian—

Ms Bicket—I understand there are a few applications. I do not have a breakdown of numbers or the circumstances but I understand that there may be a few.

Senator BARTLETT—If you are able to provide that without compromising privacy that would be helpful. Can you briefly outline what the eligibility criteria are for that—

Ms Bicket—For the special humanitarian category? The primary criterion is that the person has been subject to substantial discrimination amounting to gross violation of human rights. Obviously there is the need to meet special public interest criteria—health, character and so on—as well as the other general criteria about resettlement in Australia being the best option, looking at the degree of their links and so on.

Senator BARTLETT—The issue that I raised last time was the issue of people being either denied visas or having visas cancelled on the grounds that they were not from where they said they were—and I am particularly thinking of people claiming to be Afghanis who are then deemed to have been from Pakistan. There is a Federal Court case that I am sure you are aware of—Agha & Ors—from earlier this year, which dealt with four men, I think, who had been in detention here for some time, a couple of years, and still are. Evidence provided by the department was that a unit, IDCU—an identity checking unit or something in Pakistan—was being established and funded from early this year to verify identities of applicants in villages of Afghanistan in which they had claimed to have lived. Has that unit now been set up?

Ms Greaves—Yes, that unit has been set up in Afghanistan, not Pakistan.

Senator BARTLETT—From when was that operational?

Ms Greaves—It has certainly been operational for the last few months. I do not have the exact date but I can get that for you, Senator.

Senator BARTLETT—Has that made any determinations? Can you explain what the work of that unit is? I understand that half a million dollars was provided to set it up and run it for six months.

Ms Greaves—I would have to check the figures but we have certainly provided funding for it to be operational. The embassy here—

Senator BARTLETT—The Afghan embassy?

Ms Greaves—The Afghan embassy here sends the information back to the checking unit in Afghanistan, in Kabul. They do the checks there including, as I understand it, checking with local villages where the people claim to have come from. They have received some

responses to cases that have been sent back to them. We are beginning to get the results of those cases now.

Senator BARTLETT—Have any people had their identity verified as yet as a result of activities of the unit?

Ms Greaves—Yes, my understanding is that that is the case.

Senator BARTLETT—Have they found that people were not who they said they were, or the reverse?

Ms Greaves—There is a mix. Some have been verified as being Afghan, some they are still seeking further clarification on and some they suggest they have no knowledge of their being in Afghanistan.

Senator BARTLETT—So, in short, the purpose of the unit is to test people's identity claims?

Ms Greaves—Yes.

Ms Godwin—As much as anything else, it was to assist the Afghan authorities as a facilitation mechanism. One of the things they were finding was that people were applying for documents and they were simply unable to confirm one way or the other. In other words, they may have thought the person was an Afghan but could not confirm it or did not have enough information one way or the other. So it was not set up with the presumption that it would find one thing or the other; it was an attempt to provide some additional capacity to assist the Afghan authorities to establish whether or not a person was an Afghan and therefore to issue documents. In some instances people had applied for documents and not been able to get them, for no other reason than that it just had not been possible to establish one way or the other what their identity was. So as much as anything else it was a facilitation project to assist the Afghan authorities. As Ms Greaves has said, in some instances it has enabled us to confirm that people are Afghans and in other instances it has enabled the Afghan authorities to say, 'Despite our best efforts—and we have checked the villages and so forth that people have claimed they are from—we have not been able to establish that they are in fact Afghans.' So, as I say, it is to give a degree of certainty to the identification process.

Senator BARTLETT—It has been an ongoing problem both from our end and for the Afghans, I presume.

Ms Godwin—I am not sure what you mean about an ongoing problem—

Senator BARTLETT—Verifying identity.

Ms Godwin—but certainly because of the circumstances of the country it has been difficult for the Afghans to be confident about some people's identity. Where they have been confident they have issued documents, and they have been very effective in doing that; but there is obviously the prior step of establishing that somebody has a right to an Afghan document, and that is what the identity unit has been able to assist them with. Of course, to the extent to which they can, their verifying people's identities helps in assessing people's claims here in Australia.

Senator BARTLETT—According to the court’s judgment, evidence was given by a departmental officer, Ms Matthews, that the proposal for establishing the IDCU was first discussed in September 2002 during a visit by DIMIA officials to Afghanistan. On 14 November that year the then minister approved a submission recommending the commitment of \$200,000 to fund a unit within the Afghan interior ministry to undertake identity and nationality checking required to support the assessment of passport applications by failed asylum seekers in Australia and Nauru. Why did it take from November 2002, when the submission was approved, to February 2004 to establish the unit?

Ms Greaves—It was a matter of negotiation with the Afghan government, and that is how long the negotiations took.

Senator BARTLETT—What were the issues that needed to be sorted out?

Ms Greaves—I do not know that there were any specific issues. I think it was just a matter of which agency was going to do this in Afghanistan. As you will appreciate, in Afghanistan that sometimes takes a little bit of time. The figure is \$200,000.

Senator BARTLETT—Is that for six months operation?

Ms Greaves—That was certainly to establish the unit itself and to provide for the first six months, as I understand it.

Senator BARTLETT—Is it anticipated that it will have a life of only six months or will it be reviewed at some stage?

Ms Greaves—No, we will review it to see whether or not there is any further need. We would hope that this unit would become self-sustaining in Afghanistan, but we will review the situation.

Senator BARTLETT—But funded by the Afghan government themselves?

Ms Greaves—Yes—but we will review.

Senator BARTLETT—If it has been going for three months already then what would be the process if extra money were needed from the Australian government? Would that be able to be found at short notice to extend the operation of the unit?

Ms Greaves—We would review any request from the Afghan government and, yes, depending upon how effective we felt that the unit had been and the outcome of the review, we would be able to provide continued funding reasonably quickly—if that was what we decided to do.

Senator BARTLETT—The four people who were part of this court case—and I understand it has not been appealed so I do not think it is sub judice; I am only using these people as an example—applied for release under the Al Masri principle. They had all applied to return or had signed documents requesting their removal for return—in July 2002 for three of them and in September 2002 for the other one who was still in detention at the time of the court case and, as far as I know, is still in detention now. It was identity problems, documentation problems, that prevented them from being returned. How many other people do we have in detention in that sort of situation, people who have signed to return to

Afghanistan a substantial time ago—let us say a year ago—but who are still in detention here?

Ms Greaves—I do not have that information with me. We can see if we can get you a figure.

Senator BARTLETT—Thank you. As I said, these requests were signed in July 2002 in three out of the four cases. The judge's finding was that the cases of the applicants and the question of the establishment of the IDCU were not advanced in communications with the Afghan authorities until about October 2003. Despite the requests for return going in in mid-2002 and the submission establishing the IDCU happening in November 2002, the court stated that these matters were not advanced with the Afghan authorities until October 2003. Why would that be the case, that 12-month delay? I presume when people want to return you are keen to return them as soon as possible.

Ms Greaves—I am not sure of the answer to that question. Can I take it on notice, please?

Senator BARTLETT—Yes.

Ms Greaves—My understanding was that with a number of cases we had continued to talk to the Afghan embassy about return, but I am just not sure of the sequence in relation to these four cases.

Senator BARTLETT—It is a matter that was ruled on by the court a few months ago and I presume it is one that you have been following up on. The final statement from the finding of the judge, Justice Jacobson, was:

... it seems to me to be likely that it was ... commencement of these proceedings by the applicants which prompted DIMIA to take the necessary steps to fund the IDCU and to put the applicants at the top of the priority list.

That seems to me to be a fairly serious allegation: that you basically let these people sit there and let things drift until they applied for release under the Al Masri principle and then you started to do something. Do you have any response to that finding of the judge?

Ms Godwin—I simply make the point that those were the comments of the judge but that was not the evidence that we provided. In any event, the applicant's case was not successful. Mr Williams may have some further information on this. As I recall it, the court accepted that the basic proposition was that their removal could be effected and that we were working on that. I cannot comment on the judge's comments but the applicants were not successful in their case. Mr Williams may want to make a further comment on that.

Senator BARTLETT—According to the judge, the reason they were not successful was that, sure, it was found there was a prospect for their return but only because you had put in place things that you had only started once they undertook the legal proceedings. The valid point is being made that we do not want to tie up the courts and spend public money on these things, but if people have the perception that the only way they can get movement is to undertake legal proceedings that is a problem—even if it is just a perception that people have.

Mr Jim Williams—It is not the case that it was simply the launching of legal action that motivated the department to make these inquiries. We have been trying to resolve this case load now for an extensive period and the establishment of the IDCU happened to occur

around the same time as this case went to court. In the meantime we have had constant dialogue with the individuals concerned to try and resolve their cases. Some of them we believe are probably not Afghan nationals and we are seeking to discuss with them other countries, particularly Pakistan, that would be viable options for them. We have been working hard on the case load. It is not correct to say that it is simply a matter of taking the department to court to get some action.

Senator BARTLETT—I think the judge's comments were comments rather than a legal standing, so I suppose it is just a matter of a difference of opinion rather than a legal finding.

Mr Jim Williams—The evidence before a judge in any particular case is limited by the rules that apply to that, so it may be that he made those comments on that basis.

Senator BARTLETT—I do not want to focus just on these four, because I am aware that there are other people beyond them; I am just trying to use this as a way of getting to how the processes are operating and the money is being spent. The findings mention an email sent on 14 January this year by Mr Stannard. I presume you know him; I am sure I have his position here somewhere. He sent an email to Mr Qassem at the Embassy of Afghanistan with a list of persons regarded as top priorities for the IDCU. It contained the names of 22 people and those applicants before the court were numbered one to four on the priority list. Was it just a coincidence that these four happened to be the top priority when they were the ones with the court proceedings or were they in date order of how long they had been waiting to return?

Mr Jim Williams—I am not sure about the background to the preparation of the list. As I said, the establishment of the IDCU occurred at around the time these cases went to court so no doubt these cases were considered a priority partly for that reason. But there were more than those cases included on that first list.

Senator BARTLETT—One of the issues obviously raised in this case—it is an issue relevant for every case where you have difficulty returning them—is what to do when there is a substantial delay in obtaining the necessary documents. The finding says 'the issue of one-way travel documents in lieu of passports was put forward as a possible solution to the impasse' between yourselves and the Afghan government. The problem here—with these four anyway—is that the Afghan government did not accept that these detainees were entitled to Afghan nationality. I presume that means they were disputing that they were from Afghanistan. Has that issue of one-way travel documents been used successfully with other people?

Mr Jim Williams—In relation to Afghanistan?

Senator BARTLETT—Yes.

Mr Jim Williams—When the Afghan embassy was established following the change of government and we began discussions with them about returns, one of the principles that they were very keen on at that point was that people be returned on full national passports. We were happy to assist with that where possible but, in cases where there is a need for verification of identity or records are incomplete, it may be that the Afghan government would prefer, with these cases that we are now trying to resolve, that they be issued limited validity one-way travel documents.

Senator BARTLETT—Has that been accepted? Is that being used now?

Mr Jim Williams—I do not believe it has been used yet but it is something that is a live option.

Senator BARTLETT—So where would that leave someone if they got a one-way travel document into Afghanistan but they were not really accepted as being an Afghan by the government? Would they then be able to go in but be arrested as an illegal immigrant?

Mr Jim Williams—No. The government would not issue that document unless they were satisfied, on the balance of the evidence, that the person was an Afghan national. They have made that very clear. There would have to be a sufficient presumption that the person is an Afghan. The problem that they have—and this is part of the reason for the IDCU being set up—is that, because of the conflict in Afghanistan, records are incomplete and patchy. In many cases records are kept at the village level, so the mukhtar, the headman, is the one who keeps the records of families and of births, deaths and marriages and obviously there are patches in the information. I think they are able to form a view on the balance of probabilities that the person is an Afghan and therefore they are willing to provide that document. For the person's future interaction with governments and things in their home country, they need to resolve that issue but that would be a matter of them, upon their return, obtaining an ID card and that kind of thing.

Senator BARTLETT—Does this leave a catch-22 problem whereby people are being refused a visa on the grounds that they are not an Afghan? What happens if your IDCU demonstrates that they are who they say they are? Do you then reassess their application?

Mr Illingworth—Where a refugee assessment has been made on the basis that a person is of a particular nationality and not the nationality claimed, and it then transpires that the person is indeed of the nationality claimed, we would look at that issue again. It may well be, and it is quite often the case, that in the original assessment a decision maker has reached the conclusion where they might say, for example, 'I think this person is actually'—let us pick a country—'from Pakistan but, even if I accept the claims that the person is from Pakistan and all of the story that goes with that, they are still not a refugee'. So quite often the original decision will close off all of those options in recognition of the fact that sometimes getting travel documents and confirming with the home country that the person is of particular nationality is not a firm science from which you can predict the outcome in all cases. But there will be circumstances where the decision has turned solely on the fact that the person is, for example, a Pakistani and not an Afghan national as claimed. If it comes to light that their nationality cannot be confirmed or is rejected by that government, then we have to again turn our mind to the original claim.

Senator BARTLETT—Is there any automatic process that follows there? So a person does not have to come to you and ask you to reconsider it because you would automatically re-examine it?

Mr Illingworth—It can happen in a number of ways. An individual can voluntarily raise their circumstances with the department and say, 'This has happened and I think I deserve a re-examination.' But the department actively manages all of a case load, particularly those, for example, who are in nationality groups where there might be some doubt about their origins,

so that we can identify cases where it comes to light that an assumption that was relied on in an original decision is no longer sound. In those circumstances the department is able to initiate whatever action needs to be initiated to deal with the matter—and it does so. It has a regular process of monitoring people who, for example, have been refused refugee protection at one stage. With every passing day or week it is possible that a whole range of circumstances might change that mean we need to revisit a decision. There could be a massive change in the home country. There could be a question that emerges about whether they were really of the nationality that we assumed they were when we made the decision. There is a range of factors that we manage.

Senator BARTLETT—Applicants can rely on that to happen rather than having to hassle for it or burden the overworked minister with more letters of request for intervention under 48B or whatever?

Ms Godwin—I will make a comment and Mr Illingworth may want to add to it. Where it is things that are known and that affect either large parts of a case load or particular parts of a case load such as nationality or change in country information then, yes, we are in a position to initiate it. Of course, the other end of the spectrum is that things change in respect of individuals—they get new information that affects them personally. In that situation we are completely reliant on the individual drawing that to our attention.

Senator BARTLETT—Okay. At the last estimates when I raised this issue about the disputes about nationality between people of Afghani and Pakistani backgrounds, my memory is that the answer—it may have been from Mr Hughes—was that a certain number had been refused or had failed at the tribunal or had had visas cancelled on those grounds. You suspected that there were more but you had stopped pursuing that line because of other circumstances. Is that a correct summary?

Mr Hughes—I think the answer came from Mr McMahon at the time under output 1.3, because it straddles the two outputs. I think he said that 27 temporary protection visas had been cancelled because of differing views on identity. In the assessment process for further protection visas, obviously those issues of identity are ones that can still arise and be assessed as we work our way through the cases.

Senator BARTLETT—Are you still using the language analysis people or are you relying more on the work of the IDCU for the reassessment of Afghanis, for example, before the RRT? Or are the IDCU activities completely separate from that?

Mr Hughes—The IDCU is largely related to people who have been found not to be refugees and the issue of return, rather than assessments. I will ask Mr Illingworth to tell you how we are using language analysis.

Mr Illingworth—We continue to use language analysis as one of the possible mechanisms to provide information to guide decision makers. It is only one source of information, and the results are weighed up by the decision maker taking into account all of the other facts of the case. So it is not possible to actually say that a positive or an adverse language analysis means a positive or an adverse decision on the application.

Senator BARTLETT—But if you are making a finding that someone is not who they say they are, then it makes it a bit hard to have a positive decision, I would assume.

Mr Illingworth—It certainly is something that can be given weight. A judgment has to be made about the expert nature of the source. Decision makers are trained to weigh up various information sources. The agencies that provide these analyses are set up as specialist agencies with the aim of providing authoritative and influential opinions and assessments, but it has to be weighed up by the decision maker. The conclusion of the language analyst is not determinative; it does not bind the decision maker to reach the same conclusion.

Senator BARTLETT—Has there been any legal dispute or challenge to any of the evidence provided through language analysis?

Mr Illingworth—I believe there has been argument at the individual case level, when the departmental officer is considering the case—and you would be aware that, as part of the normal process of deciding an application, we disclose to the applicant any personal adverse information for comment, so there is usually a reasonably robust response to that information from the applicant and their advisers. I understand that similar sorts of arguments are produced before the tribunal, and they may include generalised arguments challenging the reliability of the agency. There may be particular arguments relating to the individual and the circumstances in which the interview tape was taken and the like. I believe that there has also been some of these sorts of arguments aired in litigation but I am not aware of the details.

Senator BARTLETT—But you are certainly still using language analysis from time to time in particular cases?

Mr Illingworth—Yes, we continue to use it, as I mentioned before, as one mechanism to obtain information that can be of value. I would add though that it is predominantly used where the origins of the individual are unknown and cannot be substantiated through any sort of tangible objective means. In terms of the volume, we are really talking about the particular case load of unauthorised arrivals claiming to be from Afghanistan. These people have presented over the last four or five years overwhelmingly without any documentation to establish their identity or their origin. It is really a case of a person turning up and saying, ‘Here I am, this is my name, this is where I am from, trust me.’ Language analysis in that context provides a way of at least establishing something substantial that can confirm their otherwise unsubstantiated assertions about who they are and where they are from. Overwhelmingly, the language analysis for that case load has assisted in corroborating the claims of people who have no documentation about where they are from.

Senator BARTLETT—Can I whip back to the IDCU? Who runs that? Has money gone to the Afghan government or has it gone to IOM? Who runs it on a day-to-day basis and determines where they are focusing? Who does it report to?

Ms Greaves—It is run by the Afghan government. We engaged IOM to help with the provision of some of the assistance but it is the Afghan government that runs the centre—the Ministry of Interior.

Senator BARTLETT—The money was placed in the hands of IOM initially—is that right?

Ms Greaves—Initially, yes, to purchase and set it up.

Senator BARTLETT—What sort of input or influence do we have on its activities?

Ms Greaves—We largely provide the equipment and the funding for that. Through a steering committee that we have here that the ambassador is involved in, we talk to the Afghan government on a regular basis about a number of the projects that we have funded with Afghanistan. We can talk to Afghanistan through the ambassador here, but it is the Afghan government's responsibility to do the checking. Obviously we will want to review that to make sure that the expenditure of money is appropriate, but it is the Afghan government that has to do the checking.

Senator BARTLETT—I think I asked you before to take this on notice, but could you get me the number of people whom you have assigned to go back but who have been in longer than 12 months?

Ms Greaves—We may be able to give you the answer now.

Senator BARTLETT—That would be for anywhere as well as Afghanistan, but I presume it is mainly Afghanistan that is the problem.

Mr Jim Williams—The number of Afghan nationals who are awaiting return in detention in Australia and who have agreed to accept the package is 39.

Senator BARTLETT—How long would they have been waiting?

Mr Jim Williams—I do not have the figures on that, but it would vary.

Senator BARTLETT—Is the package still a live option?

Mr Jim Williams—It is still available to those people. The issue that needs to be established and part of the condition of the package is that they are able to obtain a national passport for Afghanistan or a travel document. Some of those people may not ultimately be Afghans. Therefore, it is unlikely that they are going to be able to get an Afghan travel document. If they are indeed Pakistani, we will pursue that option as well. In many respects, it is dependent on their cooperation.

Senator BARTLETT—This is probably getting a bit more into deportation, which is under 1.3, isn't it?

Mr Jim Williams—Yes.

Ms Greaves—I might just add something on the checking unit. It is established in the Ministry of Interior, but there is an Afghan steering committee on their side which involves a number of different agencies, including the repatriation refugees ministry, the foreign ministry and the national security directorate. So it is an intergovernment steering committee on the Afghan side.

Senator BARTLETT—It is purely focused on identity, isn't it? It does not do any other sort of country information or circumstances on the ground?

Ms Greaves—No, it is for checking identity.

Senator BARTLETT—Where do we get the other country information from, given that we are relying on fresh information in Afghanistan to make assessments at the moment?

Mr Hughes—We get that from a variety of international sources. I think UNHCR has been prominent amongst the sources that we use for assessments, but we do not use UNHCR

exclusively. There are a wide range of international NGOs we get information from, as well as UN organisations.

Senator BARTLETT—I am fairly sure this was asked before by Senator Ludwig, but I will get in trouble if I do not ask it. When I was just coming in, the minister was commenting on the veracity or otherwise of media reports. Minister, you were being dismissive about the suggestion that there are instructions to the department to prepare legislation allowing TPVs to apply for permanent visas; is that right?

Senator Vanstone—Sorry, I was temporarily distracted. You are asking about media reports, are you?

Senator BARTLETT—A specific one about you instructing the department to prepare legislation to allow people on TPVs to apply for permanent—

Senator Vanstone—I have not issued such an instruction. We covered this a bit earlier. You might have been missing. When we have a change, if we have a change, we will let everybody know. Obviously that started to run that day. There were three or four stories here and there. Who knows what starts these things off?

Senator BARTLETT—I thought I would take the opportunity to ascertain its veracity. Thank you for clarifying that matter.

[12.10 p.m.]

CHAIR—We will now move to 1.3, Enforcement of immigration law, which covers a wide range of areas. Certainly that would be where the detention centre questions go, Senator Kirk. We have got enforcement of immigration law, mainland detention centres, transit visas, Manus Island, Nauru, Christmas Island, removals, litigation, excision of islands, people trafficking, border control, visa overstayers, tourists working unlawfully—amongst other things, I suspect.

Senator KIRK—In my earlier attempt I wanted to ask you about the strategy for the Melbourne IDC. On page 72 of the PBS it says that the strategy includes funding to purchase land for a new Melbourne IDC and provisional funding from 2007-08 for a new Melbourne IDC eventually to replace Maribyrnong. Can you advise us how much has been allocated for funding the purchase of the land for the IDC in Melbourne?

Mr Doherty—\$6 million.

Senator KIRK—Would that cover the total purchase price of the land?

Mr Doherty—Yes, it does.

Senator KIRK—Are you able to tell us where you are looking to purchase land?

Mr Doherty—The site that has been identified is in a portion of the Maygar Barracks. It is some surplus fenced land in Camp Road, Broadmeadows.

Senator KIRK—Is that the only site that you are looking at at this point?

Mr Doherty—Yes.

Senator KIRK—So it is likely that that is going to be the site that you purchase?

Mr Doherty—The land is being purchased.

Senator KIRK—There is a contract?

Mr Doherty—Not a contract quite yet but we are working with Defence on that now.

Senator KIRK—What was the reason for the selection of this particular parcel of land?

Mr Doherty—Its size, its location, particularly its proximity to Tullamarine airport, and its availability as surplus Defence land.

Senator KIRK—Not being from the area, how far is it from Tullamarine?

Mr Doherty—I cannot be a hundred per cent sure but it is probably 10 to 15 minutes maximum by road.

Senator KIRK—The PBS, as I indicated, says that there is provisional funding from 2007-08 set aside. Are you able to tell us how much of that provisional funding has been allocated to construct the Melbourne IDC?

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

Senator KIRK—Do you have any estimate as yet for the construction costs for the Melbourne IDC? You have told me \$6 million for the purchase of the land but what about the construction costs?

Mr Davis—We certainly have got money to acquire the land at this stage. We have made some provisional examination of the size of a new facility. The exact nature of the size of a facility and the construction costs are matters that will be re-examined a little bit later on. Whilst there is a broad provisional allocation, as it says, for a site and a construction of a new facility, the exact size and nature of how that is put together will be firmed up in several years time.

Senator KIRK—You must have some idea, if you are going to be purchasing the land. From what Mr Doherty said, the contract will be completed soon. What is the size of the land? You must have some idea in mind as to how big the facility is going to be?

Mr Davis—Certainly one of the reasons behind looking at the development of a new facility is the pressure on the existing facility. Whilst we do not have precise figuring, at this point we are certainly looking at a facility which would have 200 to 300 beds as an initial capacity, and there may be a capacity to examine whether that would grow again further on. At this stage, as I say, the more detailed design work and the exact costings et cetera are some years away before we determine the exact size. But the demand and the level of pressure on the existing facility suggest to me that it would be at least 200 beds and it could be 250 to 300, depending on where we are in some years time when we make the reassessment.

Senator KIRK—What is the size of the land you are looking to purchase?

Mr Davis—I do not have the physical size. Mr Doherty may have the physical size of the land.

Mr Doherty—No, I do not have the size of the land with me at the moment.

Senator KIRK—Perhaps you can take that on notice. You are talking about a 200- to 300-person facility—I am assuming that the land is going to be large enough to accommodate that?

Mr Davis—Indeed.

Senator KIRK—When are you expecting to commence construction?

Mr Davis—As we said, the allocation for the construction is a provisional allocation. We will be reassessing both the size requirement and the precise details of that probably in several years time. In terms of time lines, we have pencilled in some provisional money to do initial design work in the year 2007-08, I think, so we would expect the construction time line to be a couple of years. That will probably take it 12 to 18 months beyond that in terms of construction and operation. But that is all subject to confirmation through government processes, as I say, in several years time.

Senator KIRK—So, realistically, we are not looking at an opening of this facility, if it all goes smoothly, until 2008 or 2010?

Mr Davis—Not until 2010 or thereabouts, yes.

Senator KIRK—In the meantime, Maribyrnong will be the major facility in the area?

Mr Davis—Indeed.

Senator KIRK—And you say that is under a lot of strain?

Mr Davis—It is under a degree of strain, and we have had an interim allocation to do some work to try to improve the amenity of Maribyrnong. Some of the central services and other things need a bit of work, and we need to look at the issue of whether a small increase in occupancy level is achievable, so we have been allocated some resources to do that in the interim period.

Senator KIRK—Yes, I was going to ask you about that. What sum of money has been allocated to upgrade Maribyrnong?

Mr Davis—We have an allocation of about \$7 million to do that. That is a combination of money for a small increase in occupancy levels as well as looking at things like upgrading heating and other central services that support the facility. So it is a combination of additional accommodation plus, I guess, upgrading and improving the facility, which is quite old.

Senator KIRK—How many people are housed currently in Maribyrnong?

Mr Davis—The normal medium-term occupancy we aim for is about 75 with a surge of up to 80 when necessary.

Senator KIRK—What is its capacity?

Mr Davis—That is the capacity.

Senator KIRK—The total capacity is 80—no wonder it is under strain if you are looking at creating one for 200 to 300 beds. You said that some of the \$7 million is going to go to increasing the number of places there. What sort of capacity will be there at the conclusion of the upgrade?

Mr Davis—We have envisaged an additional 50 beds. The expectation is that we will bring in demountable accommodation within the site, but we have to look at the site as a whole and work out the details of how we might configure the site. But the expectation is perhaps up to another 50 beds.

Senator KIRK—What sort of time frame are you looking at for the upgrade?

Mr Davis—We are hoping to have that operational by the end of the next financial year—so around 12 months. We will continue to operate the site whilst we do that work.

Senator KIRK—Is it the intention to close Maribyrnong once the Melbourne IDC is completed?

Mr Davis—I think that is what we envisage, given the age of the facility. What we have been given in the short term is something to tide us over until we are able to construct a new facility. The expectation is that at that time Maribyrnong is likely to close but, again, that is subject to decisions that will be made in some years time.

Senator KIRK—And it is still some time off, as you have said. So you would not have any idea what might happen to the Maribyrnong site—it is too far in the future?

Mr Davis—It is just too early to be able to speculate.

Senator KIRK—Every year there seems to be some reference to the Brisbane immigration detention centre—some announcement in the budget—but there is not a great deal happening. Perhaps you can give us an update on Brisbane.

Mr Davis—The budget has allocated some resourcing to acquire the Pinkenba site, and there is some provisional allocation beyond the forward estimates period for a new facility of the size we were previously talking about. But, again, that will be subject to a confirmation process or re-examination in some years time. The acquisition of the site is simply giving us a capacity to have an option available when the matter is reconsidered again in several years time. The development time lines are beyond even the Melbourne time lines by at least another year. As I say, that is subject to confirmation at the time that the government wishes to proceed with building a new facility.

Senator KIRK—So really it is at a similar point. You have purchased land but that is all.

Mr Davis—We are acquiring land to preserve an option for the government to consider when it wishes to reconsider the matter in several years time. That is what the acquisition of land is about.

Senator KIRK—From whom was the land purchased?

Mr Davis—The Department of Defence.

Senator KIRK—What was the cost of the purchase of the land?

Mr Davis—It was similar to the Maribyrnong site—approximately \$6 million. We are in final discussions with Defence on the exact value.

Senator KIRK—Is the land a similar size? We do not know the size of the land in Melbourne.

Mr Davis—We would have to take the size issue on notice. Certainly the development that we flagged several years ago envisaged a facility of around 200 beds in the first stage of development, with some central services and capacity to move up to around 500 in a subsequent time frame. That is what was envisaged several years ago, and the provisional allocation we have got is consistent with that previous thinking in terms of size.

Senator KIRK—So you have not progressed any further than purchasing the land? Has there been a tender process, for example, for the building of the centre?

Mr Davis—Prior to the most recent decisions, we have progressed some concept design work that was done some time ago which helped inform our costings. But we have not gone beyond that in terms of any detailed design or specification of the exact configuration of the facility and so forth. That is all potentially in the future, but we have essentially suspended the current design work until the government reconsiders the matter in several years time.

Senator KIRK—What was the cost of this initial concept design work?

Mr Davis—I would have to take that on notice. I would not have that detail here.

Senator KIRK—If you could. From what you are saying, it has really been put on hold; you are not moving forward on it at this point?

Mr Davis—No, other than putting a fence around the site and securing it we are not doing anything.

Senator KIRK—What is the estimated cost of the building of the facility if it goes ahead?

Mr Davis—I would have to take that on notice, but I believe those figures are provisional and may be misleading in terms of the ultimate outcome. Can we perhaps take that on notice and see what we can do?

Senator KIRK—If you could, that would be good. The PBS mentions on page 72 the mothballing of Port Hedland, which has been mentioned a number of times. Is it the intention to mothball the residential housing project in Port Hedland as well, or just the centre?

Mr Davis—The residential housing project is also being maintained for potential reopening. At the moment we happen to have some staff actually in the RHP, because it was staff accommodation before it was converted to an RHP. So we currently have some staff in the RHP but it is going to be maintained for potential re-use if we need it.

Senator KIRK—So there are no detainees at all in the housing project?

Mr Davis—No, there are no detainees in Port Hedland at all. They have all been moved.

Senator KIRK—What is the rationale for the closure of the detention centre and the housing project?

Senator Vanstone—‘Mothballing’ is a better word.

Mr Farmer—It is really a question of current needs. With the opening of Baxter we have been able to rationalise the existing arrangements and, as you know, decisions have been taken in relation to Woomera, Curtin and Port Hedland. Port Hedland and Woomera are to be mothballed—they are there as contingency facilities if the need arises.

Senator KIRK—When centres are mothballed, are they just left empty? There must be some security and the like provided?

Mr Davis—Indeed. Security and maintenance are maintained so that, if we need to reactivate the facility, that can be done at very short notice. We do not just lock up the gate and walk away. We have a small allocation to continue work like security and maintenance so that they are ready to be reactivated.

Senator KIRK—There have been some calls, as understand it, from the public that the Port Hedland site should be handed over to the local community. Has the department received representations to that effect?

Mr Davis—We did have some approaches from the Western Australian government on that matter. I am not sure that we have had any private citizens approach us. Those issues were part of government deliberations and the decision of government is to mothball the facility and have it ready for reactivation and use potentially as a contingency facility if we ever need to do that.

Senator KIRK—So the answer is, ‘No, we are not going to hand it over’?

Mr Davis—The answer is that we have had some approaches and some representations and the government considered those representations, particularly the Western Australian government’s, in its deliberations.

Senator KIRK—What is the intention with the Curtin IDC?

Mr Davis—The intention is to remediate that site and hand it back to Defence. We are looking at the clean-up or disposal of any residual buildings and equipment that we own there before handing the site back to Defence. The Curtin IRPC was a combination of assets that we owned as well as some existing buildings Defence owned. What Defence’s plans are for those buildings, I cannot comment on. We are looking at removing our assets and, where appropriate, disposing of them and handing them back to Defence.

Senator KIRK—What sort of time frame are you looking at for that to occur?

Mr Davis—I think that is probably something we would do over several months. Mr Doherty might have more detail on time lines.

Mr Doherty—We are doing some preliminary inspection work now with a view to progressing the exercise over the next three to four months.

Senator KIRK—The Curtin centre was mothballed initially, wasn’t it, for a period of time?

Mr Davis—Yes.

Senator KIRK—Now it has been decided to close it. What was the cost during that so-called mothballing period for maintenance and security and the things that you mentioned before?

Mr Davis—I do not have that, I am sorry. We will take that on notice.

Senator KIRK—Finally, what was the period between the mothballing and the closure?

Mr Davis—Curtin was mothballed in September 2002, the same month that Baxter was opened. The detainee population was split between Port Hedland and Baxter at that time.

Proceedings suspended from 12.29 p.m. to 1.37 p.m.

CHAIR—We will resume our consideration of outcome 1.3.

Senator CROSSIN—I wanted some updated information on the temporary immigration detention processing centre at Coonawarra. These are probably figures you have given me to

date and I am assuming they have not changed much. Can you tell me how many people have been housed at the IRPC in Darwin?

Mr Davis—None, Senator.

Senator CROSSIN—So, no people seeking asylum?

Mr Davis—No detainees have ever been at Coonawarra. Coonawarra was established some years ago as a contingency facility, and we have had no need to use it up to now and no detainees have been held there.

Senator CROSSIN—What was the total cost of building the facility, including the fencing and landscaping?

Mr Davis—The total cost of the centre has been \$7.4 million since it commenced. It costs around \$70,000 per year to maintain the site.

Senator CROSSIN—What is involved in maintaining it on a yearly basis?

Mr Davis—It is things like mowing the grass—

Senator CROSSIN—There is no grass there, so have another go.

Mr Davis—Sorry. It is basically maintaining the facility in a state of readiness. There are issues around cleanliness and the neatness of the site. No major repairs or anything of that nature have been required; it is just a matter of regular examination.

Senator CROSSIN—Has the centre been used for any Defence Force purposes or community based purposes in that time?

Mr Davis—Yes. Defence have accessed the facility a number of times for their use. After they have used it, they have made good in terms of cleaning up after they have left and so forth. I do not have figures on how often that has occurred but it has happened several times.

Senator CROSSIN—You might take that on notice for me.

Mr Davis—Yes.

Senator CROSSIN—Do they remunerate your department each time they use it or is it on a no cost recovery—

Mr Davis—No, it is simply on the basis of make good. Once they have used the site, they clean up after they have finished, as needed.

Senator CROSSIN—Can you give me a breakdown of the \$7.4 million to date? I know there has been some money for the removal of the barbed wire and the additional landscaping.

Mr Davis—Of the \$7.4 million, \$4½ million of it was for the original supply and placement of demountable units, the accommodation and so forth; \$1.2 million was for perimeter security such as fences, lighting, site preparation and things of that nature; \$1 million was for general service upgrades; and the residual amount of \$700,000 went on things like design work, minor electrical works and recreation and landscaping.

Senator CROSSIN—The budget estimate for the IRPC this year is just \$70,000—is that right?

Mr Davis—Essentially, within our detention allocation, the ongoing maintenance costs are all we are bearing at the moment for Coonawarra.

Senator CROSSIN—So the forward estimate for year after year would be \$70,000?

Mr Davis—Yes.

Senator CROSSIN—What do you have planned for the facility?

Mr Davis—Nothing in the short term. It is a contingency facility that remains available to us should we ever need to use it.

Senator CROSSIN—There have been some reports that that land was to be sold off. Is that in fact the case?

Mr Davis—My understanding is that the site as a whole, the defence site, is no longer an operational defence facility and the future of the whole site is a matter that Defence are examining. In that context we have been asked what our needs are in terms of the facility. At the moment we have indicated to the defence department that we continue to wish to have our portion of the entire site retained for a contingency immigration reception and processing centre.

Senator CROSSIN—Do you pay Defence any money for having the demountables there or is it all treated as part of Commonwealth land?

Mr Davis—We do not currently pay any rent on that site.

Senator CROSSIN—You are saying that if Defence were to decide tomorrow to sell the Coonawarra basis they could go ahead and do that except for the portion that your demountables sit on—is that right?

Mr Davis—I do not know the full range of their processes. They have asked for our opinion on what we would desirably need in terms of retaining our portion of the site. I am not sure what processes that needs to go through with the defence department but we have indicated a clear requirement to retain the site as a contingency site at the moment.

Senator CROSSIN—You would no doubt be aware of the coroner's report and criticism of the detention of Indonesian fishermen off the shores of the Northern Territory?

Mr Davis—Yes.

Senator CROSSIN—I refer in particular to the death of a 21-year-old Indonesian fisherman. I understand that when the fishermen are caught they are held and maintained on boats in Darwin harbour—is that correct?

Mr Davis—That is my understanding, yes.

Senator CROSSIN—Has any thought ever been given to moving these people off their boats and maintaining them in this detention facility?

Mr Davis—The government made some decisions in relation to shortening the period of detention on boats and allocated some resourcing to the relevant Fisheries agencies, as well as us, to implement the return of Indonesian fishermen. At the moment they are detained on boats. That is a matter Fisheries would need to comment on in terms of moving forward. But the budget papers also indicate that options are being explored by Fisheries. We are involved

in discussions with them as well. How those options move forward is a matter for examination and, potentially, future consideration by government.

Senator CROSSIN—This man was held for several weeks. Is that correct?

Mr Davis—I do not have the details here with me. I understand that he was held for some time.

Senator CROSSIN—Instead of waiting for any further work or options to be explored, why hasn't a decision been made for the safety of these people—we are talking about saving lives now; there has been one death already—that, in the interim period, when these people are caught their boats are moored and secured but they are physically taken to land and held at the detention centre? Why has that decision not been made?

Mr Farmer—That is a question for the Fisheries portfolio, isn't it?

Senator CROSSIN—This area is somewhat clouded. We are talking about illegal fishing people. My understanding is that you get AFMA to undertake the detention and holding of these fishing people. Is that correct?

Mr Davis—That is not entirely correct. When the illegal fishing people are detained they are in a period of Fisheries detention under the auspices and management of Fisheries. After a period of time, once decisions are made on prosecution and the expiration of the legislative period, they can revert to immigration detention. The logistical arrangements are that, even though they may technically come into immigration detention, Fisheries continue to detain them on our behalf under arrangements which they have established and which they manage. The role we then play is to arrange removal or return home when they are available for removal.

Senator CROSSIN—We have had one person die. You have a detention centre sitting there and no-one is being housed in it. Is anybody initiating any discussions about keeping these people alive while they are being detained, possibly using the processing centre?

Mr Farmer—As we have indicated, that range of issues is under very active consideration now. When I say 'very active' I mean it. We are looking at the sort of advice that we have been asked by a number of departments to produce. The government will be receiving that advice, I expect, quite soon.

Senator CROSSIN—In the meantime, though, as a temporary measure the processing centre will not be used for that purpose? Has there been no suggestion? Didn't someone get the coroner's report and say, 'We've had a death here and we've got a detention centre sitting vacant; in the meantime, these people can be held at the detention centre'?

Mr Farmer—I do not know whether any question of that sort has been asked in the Fisheries portfolio. That perhaps is where that question should be directed. I simply reiterate that this matter is under very active current consideration.

Senator CROSSIN—Is that not a question you can ask Fisheries in your consultation with them? It is not an issue you can raise with Fisheries?

Mr Farmer—I do not think it is our role to ask them a question on behalf of the committee.

Senator CROSSIN—In your normal daily operations in controlling immigration can you not be proactive and undertake discussions with them about this?

Senator Vanstone—With respect, Senator Crossin, the secretary has given you two answers, both of which are perfectly appropriate. One is that this matter is under active and serious consideration. Obviously that means the government is going to get some advice soon, and we will presumably have something to say when we get that advice. The second is that there are arrangements put in place for questioning. This is a question you think should be asked of Fisheries. You are welcome to ask it yourself in that committee or get another senator to do so.

Senator CROSSIN—I think you have misunderstood what I am asking you. It is not that I want an answer from Fisheries. What I am asking is this: in a proactive policy way, has Immigration not thought to initiate discussions with Fisheries about the use of the detention centre following the coroner's report in March?

Mr Farmer—We have been talking with the Fisheries portfolio about the whole range of issues related to detention of illegal fishers. As I said, that discussion has come to the point where we expect to be putting advice to government very soon.

Senator CROSSIN—Is there any possible way that you can release this facility for community use?

Mr Davis—That is a difficult one. We have had a number of requests, as I understand it, to do that. The difficulty is that it remains available as a contingency site for immediate activation. Whenever requests come to us for community access to it the issue arises about how long that access is for and, given the volatility and the uncertainty of our business, whether we can immediately take the site back or have people leave. The other issue is that it is on a defence site and therefore general access to the site is also an issue in that context.

Senator CROSSIN—My understanding is that that is not the case now, because it is not actually a defence base; it is just a logistics area. My understanding is that the restrictions about coming and going on Coonawarra have been totally relaxed.

Mr Davis—I do not know the details. That is a question that I would need to take up with Defence. In terms of it remaining a defence site, all I was saying was that in a general sense community access on a defence site would not necessarily be a straightforward matter. That is something that I would need to consult with my Defence colleagues on.

Senator CROSSIN—My understanding is that it is now just a holding centre, basically, and there are no access restrictions as there are, say, on the other bases in the Darwin area and that the nature and focus of that base has significantly changed in the last 12 months. When was the centre actually completed? My understanding is that it was around December 2000.

Mr Davis—I have in front of me a statement that says that we commenced establishment in late 2001. I do not know when it was finalised. I imagine it would have been in late 2001 or in early 2002.

Senator CROSSIN—Would it be safe to say that it has been completed and available for use for the last two years?

Mr Davis—Something around that time frame, yes.

Senator CROSSIN—So it has been there for two years and not one asylum seeker has been in it?

Mr Davis—That is right.

Senator CROSSIN—We have had a number of asylum seekers come by boat to this country and they have been dragged to Christmas Island. I am assuming the policy these days is to take asylum seekers who reach the mainland across to Christmas Island. When people arrived in Port Hedland they were taken to Christmas Island; they were not taken to Darwin.

Ms Godwin—Mr Davis has made the point already that Coonawarra has been established and was originally established as a contingency facility and we continue to have it as a contingency facility. Some years ago when the first upsurge in boat arrivals was happening the question arose about why we did not have contingency facilities available and decisions were taken that we would in fact establish contingency facilities. Coonawarra is one of those. The fact that we have had small numbers of arrivals and that they have gone to other locations does not remove from us the need to ensure that we have appropriate contingency capacity.

Senator CROSSIN—In the estimates of last November when I asked this question your answer was that you were going to have discussions with the Department of Defence about the possibility of the community using this facility. Did that occur?

Mr Davis—My understanding is that we have had discussions with the Department of Defence. On that particular issue, I would need to take the question on notice. Those questions about the future of the whole site have certainly been held in the last little while, but I do not have any details here on that specific question. I would need to take that on notice.

Senator CROSSIN—I ask you to do that. My point is that we do not have a flood of people coming by boat, we have a detention processing centre that has been vacant for two years and we have a number of community groups who could use this facility. Has there been no thought or reconsideration of perhaps making the facility available to the community in any way, shape or form—given that if you suddenly had a number of people arrive by boat, as has always occurred, they could be processed at the showgrounds in Darwin? That could occur while you emptied your processing centre. There are ways around it. Has consideration not been given to that?

Mr Farmer—I think Mr Davis has said he will take on notice the question of whether those discussions have taken place with Defence.

Senator CROSSIN—With respect, Mr Farmer, that is the same answer I got last November.

Mr Farmer—No, I do not believe that is the case. You asked a moment ago whether the discussions on this issue that were foreshadowed in November have in fact taken place. Mr Davis said that he knew that there had been discussions with Defence on a range of matters relating to Coonawarra. He could not recall whether those discussions had touched on the matter of possible community use but he undertook to answer that on notice.

Senator CROSSIN—Another six months goes by and we are still no further advanced on getting any benefit out of this white elephant that is sitting there.

Mr Farmer—It is not a white elephant, Senator. If you make a prudent contingency—

Senator CROSSIN—You would probably be one of the very few people who would not think that, Mr Farmer.

Mr Farmer—Well, I do not mind being in a minority if I am right. A prudent contingency is not a white elephant in my language.

Senator CROSSIN—It has not been proven yet. No-one has been housed there. It has not been used for two years and it cost \$7.4 million.

Mr Farmer—And it is a prudent contingency.

Senator CROSSIN—Everyone in Darwin is reminded of it every day when they drive up and down the Stuart Highway. Community groups around the Territory are wondering why they cannot use it.

CHAIR—Senator Crossin, in relation to that, a number of questions have been taken on notice for you. I think Mr Farmer has answered your question. I am not sure that we are furthering the matter.

Senator CROSSIN—Can you tell me whether people are still being processed at the Darwin showgrounds.

Mr Davis—I am not aware of any processing of people at the Darwin showgrounds in the last little while. I am advised that DIMIA has not used the showgrounds since January 2002 but AFMA accessed the showgrounds in a cyclone situation in March 2003. The information I have here suggests that we have not otherwise accessed the showgrounds.

Senator CROSSIN—Finally, I ask: given the coroner's report in March, has the department looked at the recommendations and findings of that coroner's report and made any operational changes regarding the treatment of these people?

Mr Davis—I believe that is a matter for Fisheries to answer. The findings of the coroner's report included some indications of the logistics of managing the people on their boats. That would be a matter that Fisheries would need to respond to.

Senator CROSSIN—Thank you. That is all I have.

Senator KIRK—I want to ask some questions about the *A Last Resort?* report, which I have here. It is clear from ACM's response to the inquiry, which appears towards the back of the report, that there were not any child-specific security procedures in place in any of the detention centres. About halfway down page 3 of their response they state:

ACM provided services in accordance with then current service requirements that, with hindsight, did not contemplate lengthy periods of detention for children. Where ACM is the service provider ACM will liaise with the Department to establish required service standards relevant to the length of a child's time in detention.

Even though we have not seen the text of the ACM contract, it appears from what ACM is saying that the service requirements did not require them to put into place facilities and the like that would be suitable for children being held for a long period of time. Is that your understanding?

Ms Godwin—There are a couple of points to make. First of all, the bulk of the contract we had with ACM is in fact publicly available and has been made available to this committee a

number of times. The new contract with GSL is also, in almost its entirety, publicly available and is on our web site. I think the point that is being referred to is something that the commissioner in the HREOC report drew attention to, which was that there were not a separate set of procedures. But I think the point that ACM were making, and a point that we made a number of times during the course of the inquiry, is that if you read the contract, the detention service standards and the overall operational orders in their entirety and together as a body you will see that they certainly address a number of the issues that the commissioner was concerned about, in our view.

Senator KIRK—So this is the new contract with GSL?

Ms Godwin—Even the old contract. As inevitably would be the case in these sorts of circumstances, we operated the previous contract for a number of years and we obviously learnt a lot through that process, and the new contract is more detailed and more specific in a range of areas. But even with the old contract, my point is that if you look at the contract in its entirety, the detention standards and the operational orders—and all those were available to the commission—in our view, while there was not a separate set of procedures relating to children, a range of issues to do with people with special needs, women and children and those sorts of issues were encompassed by the totality of that documentation. That was our view and that was the view we put to the commission. On the specific point—whether there was a separate set of procedures—no, there was not a separate set of procedures.

Senator KIRK—You say that you raised these matters with the commissioner. Was that in your written response to the first draft of the report?

Ms Godwin—It was in a number of presentations. We made, in the first instance, a very lengthy submission to the inquiry. Secondly, we answered huge volumes of questions and provided huge volumes of material to the commission. I think at one point we were able to get it into something like eight or 10 of those huge lockable suitcases, so this was a very considerable volume of material. We appeared for four days as a public hearing. We submitted 300 pages of comment on the draft report in the middle of last year and we made subsequent comments in December last year and February this year. And we have continued to draw attention to a range of material that we do not believe has been adequately encompassed in some of the comments in the report.

Senator KIRK—Is there anything in writing as the DIMIA response to this report?

Ms Godwin—There is an attachment in the report itself, an appendix, which was our formal response.

Senator KIRK—Right. Nothing has been prepared post the tabling of the report, apart from the press release that I am aware of that I think the Attorney-General or the minister for immigration put out?

Ms Godwin—That is a response by the two relevant ministers. We have not prepared any further formal departmental response.

Senator KIRK—Can we go back to a specific point about ACM saying that the service agreement did not contemplate lengthy periods of detention for children. In your comments to me just a moment ago you were talking about there being specific procedures or processes in

place. Could you comment on that more general point, that the service requirements did not contemplate lengthy periods of detention for children.

Ms Godwin—Again, I think it goes to this question about whether there is a phrase in the contract which talks about the potential for lengthy detention. I do not recall all of the sentences in the contract, and probably it is true that there is not a specific sentence of that sort. The contract, however, was clearly constructed around the concept of adjusting service delivery to the changing needs of detainees and the changing circumstances. The statement of requirement right back at the very beginning of the previous contract—which takes us back to 1997—certainly talked about the fact that the service requirement needed to address a variety of circumstances.

I was not directly involved in that process at that time. I do not recall precisely, but there was certainly a lot of discussion around the fact that there were a variety of requirements around providing services for detainees, that those needs changed over time and that what we needed was a contract and a service delivery capacity which was able to adapt to the changing needs of the detainees and the changing circumstances.

So, again, I would not disagree that there may not have been a specific statement of that sort, but the concept of the contract was meant to be one that was adaptable. Indeed, the experience over the years was that there was a considerable amount of adaptation over the years for the changing needs of detainees, including the establishment of alternative arrangements for women and children, all of which are developed within the context of that contract.

Senator KIRK—I understand what you are saying—that there has been a need to adapt and have that flexibility contained within the contract—but they seem to be saying here that the current service requirements do not contemplate lengthy detention of children. I can understand what you are saying about there needing to be a certain amount of adaptability and for it to cover all detainees, but one would have thought that, in the context of children being children, perhaps there should have been some more specific provision made for them. ACM are saying there was no contemplation of long periods of detention for children.

Mr Farmer—It is really a comment by them, isn't it, on the detention standards rather than, if you like, a quotation from the standards? That is how I read it.

Senator KIRK—They say that they provide services in accordance with the then current service requirements, which, in hindsight, did not contemplate lengthy periods of detention for children. That is the statement they make, so obviously that is their interpretation of what the service requirements were.

Mr Farmer—I agree with that. It is their interpretation. They are making a comment on it rather than quoting something from the standards, which explicitly say, 'This only covers short-term arrangements.'

Senator KIRK—Do you agree with that view—that that is an interpretation that you could most certainly put on the contract?

Mr Farmer—It is a point of view, and my point of view would be that elements of the detention service standards continued well through time. The specific actions taken to

implement the standards had to develop. As you know, when we renegotiated the contract, part of the preparation for that was to prepare a revised set of detention standards and to do that on the basis of experience.

Senator KIRK—When you were reviewing the service requirements, is it correct to say that they were reviewed on an annual basis or just every time the contract came up for renewal? How often were the service requirements renewed?

Ms Godwin—Are you talking about in the context of the previous contract?

Senator KIRK—Yes, I am talking about the ACM contract.

Ms Godwin—There was no single point of review. But, clearly, our service requirement changed over time and the service delivery arrangements adapted over time. To give an example, when we started we had four centres; by 2000, we had six; and by 2001, when we started establishing residential housing projects, we had changed not just the number but the style. All of that was able to be done within the framework of the then existing contract. This was a point about which we talked at length with the inquiry: how there has been a process of continuous improvement throughout that time.

Senator KIRK—So there were no formal variations to the contract during the period—it was set up to be adaptable?

Ms Godwin—There was one formal variation. Without getting into the details I can tell you that it was a complex contract. There were very specific things in it about certain ways that changes needed to be undertaken and certain things that needed to be the subject of formal variations. But it was intended that a whole range of other things would be incorporated into the ongoing adjustments to service delivery arising from the varying needs of the detainees.

If you look at the detention standards in the contract it is clear, as I said, that the concept of the contract was meant to be about looking at the needs of the detainees and adjusting service delivery in light of those changing needs. That is essentially what happened. We did not have to vary the contract to set up residential housing projects for women and children even though when we entered into the contract in the first place we had no such things and at that point they were not contemplated. Equally, the concept of alternative places of detention—not just residential housing projects but a variety of other circumstances—was developed through the life of the contract within the framework of the contract and did not require contract variation as such.

Senator KIRK—Are there child-specific procedures contained within this new contract with GSL? Are they spelled out?

Mr Davis—I think I will have to take that on notice and get back to you. I do not have it in front of me but I suspect most of the new contract is specified in more generic terms—in terms of all detainees—but there are specific provisions about notification of child welfare authorities and other children-specific issues both within the IDSs and also within operational procedures that the new contractor has been developing. In that context there has been a continued focus on the needs of women, children and other detainees with special needs but

within a broader framework. Perhaps I could take that specific question on notice and get back to you.

Senator KIRK—Yes. I understand that when detainees are moved from one detention facility to another they are allocated a new ID number. Is that correct?

Ms Godwin—I think we would probably need to take the specific details on notice. It is certainly true that in each centre there is a capacity to make sure we can identify the detainees in that centre. So they may well be assigned a new number. That would be a matter for the service provider. Our objective is to make sure we know where everybody is at any given time.

Senator KIRK—Why is it that numbers need to be used? Why can't people be identified by names? It makes it very hard for people who are trying to communicate or correspond with people in one centre if they have their number changed when they move to another centre. Who do they send their letters to?

Ms Godwin—Please do not misunderstand. People have been referred to by name but for record keeping purposes—particularly when we had very large numbers and there were people with very similar names—we have had a process of identifying people not just by name but by a record number that related to the centre. That meant we could link the person to the centre where they were. If they move from one centre to another then in order for the service provider and us to work out which centre they are in there is that ID number process. But people in the centres are referred to by name and that is a very clear requirement. That is in the standards and it is something that we have been very clear about with the service provider over a period of time.

Senator KIRK—The matter has been raised with me. I have an article here with some discussion of the fact that some people who had been receiving letters from members of the community were not receiving them anymore because they had been moved to Baxter and had been given new ID numbers. The persons writing to them from outside were only aware of their original ID numbers and the letters were not being passed on. This problem has been raised with me. What is the reason for that?

Mr Davis—I am not aware of that specific concern. If you can provide me with some of the details, we will follow it up. Certainly we do have ways of tracking detainees when they move centres. Yours is not a specific concern that I am aware of but, if you have information or we need to do something a bit more proactive to sort that out, we can have a look at it.

Senator KIRK—Why does the identification number have to be changed at all? Is the ID number specific to the centre? Is that why you need to attach a new number?

Mr Davis—There are two issues. Certainly the identification number system was one that the service provider created. The fact that there was a letter or an identifier at the front of the number to identify which centre people were in made it easy to compile statistics and other things. The numbering system has been an area of discussion with the new service provider. I am not quite sure where that is up to. Certainly GSL have indicated that they want to do it slightly differently, and we are in dialogue with them to make sure that that does not create any concerns. But, even with GSL, discussions are all about a person having a unique identifier, which means that you can very specifically deal with an individual. A lot of that

goes to record keeping. We have health records, property records and a whole range of records associated with individuals. Often the name is not enough in being able to uniquely identify individuals. We can have a look at those concerns, but certainly with ACM and GSL the focus has been to have a unique identifier and the identification of the centre is part of that. It has been part of how ACM did it and it is my understanding that we are still using that at the moment. GSL have some thoughts about how they may wish to improve the way that operates. That is something that is under discussion at the moment.

Senator KIRK—I would have thought that if you were transferring people from one centre to another you would want their medical records and the like to go with them.

Mr Davis—They do, indeed. Part of the reason for people having that unique identifier is to identify which records need to go with them. That is partly why the number is used.

Senator KIRK—I do not follow, then, why the numbers changed when they went to a different centre.

Mr Davis—As I said, under the former service provider, it was partly to do with knowing which centre someone was in at the time. With alternative detention arrangements, RHPs and other things I guess the idea of being attached to a centre has been diluted a little bit. As I said, it is an area of dialogue between us and GSL to have a numbering system which remains unique but also gives you a pointer at least to the centres in which people are held.

Senator KIRK—When are the negotiations in relation to this issue going to be finalised?

Mr Davis—One of the requirements of the new contract with GSL, and why this is under discussion, is to have a range of the reporting done on a system. Part of the issue of this numbering system has arisen in the context of creating that system. Stage 1 of that system has already been rolled out and is in operation. There are further stages of development of that system going on. But, in the context of the system recording the right information, the issue of the unique identifier—and indeed the issue you raise about people moving centres—is one that we are trying to work through in context of building this system. That system is, as I say, already operational but further enhancements are expected over the next six months or so. That is one of quite a range of issues that we are trying to work through in that development process.

Senator KIRK—It is not just a matter of the service provider being able to identify the individuals but also the department and external third parties who are interested in staying in contact with individuals being able to identify the individuals.

Mr Davis—I do not want to go too far into the detail, but one of the issues is that in our own systems we generate a different number. That is one of the issues that we are trying to deal with in the building of a system for the new service provider. The fact that we have a separate identifier in our case management system that processes visas for visa-processing purposes is actually one of the issues that we are trying to tackle in making sure the systems all talk to each other, line up and do not create concerns. I am very alive to the issue you are raising about the need to have individuals with unique numbers, and the issue of moving between centres is one aspect of that. There are quite a few other aspects of that as well that we are trying to work through and come to a balanced resolution of. As I say, if you have specific concerns that we can follow up we will look at them.

Senator KIRK—It is more about the changing of the numbers from one centre to another. It makes it very hard to track down a person if you are not aware of their full name. This is what has been raised with me, but I can raise that with you later.

Mr Davis—That concern has not been raised with me, but if there is any way in which we can look at that and try to help you we will.

Senator KIRK—The last time we were here I asked for an update on children who have been self-harming in detention, and I have the statistics. I wonder if you could give us an update on those figures.

Mr Davis—The last time we were here I think we indicated that we had, up to October, a record of 12 children either threatening to self-harm or actually self-harming last calendar year. After further looking at the data, we actually revised that to 10, because two of the entries were actually for people who had reached the age of 18. So the number for the whole of calendar year 2003 was 10. Turning to 2004, we have not had any at all in the current calendar year.

Senator KIRK—So that is from 1 January this year up to?

Mr Davis—From 1 January this year up to the end of April we have had none.

Senator KIRK—That is an improvement. What do you put that down to?

CHAIR—Senator Kirk, I am not sure that Mr Davis is in a position to answer.

Senator KIRK—I was hoping that he would say to me that new procedures or something had been put in place which perhaps had improved the situation.

CHAIR—It is up to you, Mr Davis.

Mr Davis—I will make a few observations. There are a whole range of factors associated with these situations and they are very complex. One simple factor is the numbers of children who are in detention. The numbers have simply gone down over the last few years, and I think that alone is one factor. It is a very complex area, one that we take very seriously, and we are pleased by that result as well, but there are a whole range of factors possibly behind that.

Senator KIRK—While we are on that subject, could you also provide me with an update on the number of children in detention, both on the mainland and offshore?

Mr Davis—As at 19 May the number of children in immigration detention in total in Australia, which includes Christmas Island for my figures, is 88. We have 11 on Christmas Island, we have 16 in our RHPs, we have five in foster care arrangements, we have seven in other alternative detention based arrangements and we have 49 in detention facilities. Overwhelmingly in terms of the composition of those in detention centres, 12 of those are unauthorised boat arrivals and 37 are what we call 'compliance or unauthorised air arrival caseload'. Most of those in detention are held at Villawood and most have been there for a short period of time.

Senator KIRK—That adds up to the 88, does it?

Mr Davis—Yes, I have got 88.

Senator KIRK—How many Australian born children have been held in detention centres over the last two years?

Mr Davis—Perhaps we will take that on notice to give you the detail but my understanding is that we have had a least two births this financial year. But I would prefer to take that on notice so that I am accurate.

Senator KIRK—Do you have figures on how many children have been deported from Australia with one parent still remaining behind in a detention centre?

Mr Davis—I think we would prefer to take that one on notice because we need to look at the detail.

Senator KIRK—You gave me figures, including 49 children in facilities, and you said people from airports. Are they the overstayers or a combination?

Mr Davis—Three of those are what we call unauthorised air arrivals—people who have come in at the airport without authorisation and who have been detained—and the other 34 are people who, either individually or as part of a family, have breached visa conditions or overstayed visas.

Senator KIRK—And the other 12 are the unauthorised—

Mr Davis—Unauthorised boat arrivals.

Senator KIRK—Do you have a breakdown of the length of time the people who are either overstayers or unauthorised air arrivals have been held in detention?

Mr Davis—I do not have that level of detail here. I will take that on notice.

Senator KIRK—I had some questions in relation to the cost of detention. You provided an answer to us to question on notice No. 38 about the cost of detention per detainee per day. Could you give us an update on that? You may need to take it on notice.

Mr Davis—The figures in the answer to that question on notice were as at the end of February. I have figures as at the end of April. Villawood is the same, 111; Maribyrnong is 243; Perth is 551; Port Hedland IRPC is 313; Baxter is 292; Christmas Island is 555; the Port Augusta RHP is 658; and the Port Hedland RHP is 1,671.

Senator KIRK—Has the mothballing of Port Hedland had any impact upon the cost of detention per day per detainee?

Mr Davis—It will. Obviously Port Hedland will go to zero. In terms of the Baxter facility, there are likely to be some economies of scale because the additional 50 detainees will mean that the average daily figure is likely to come down. How much is something that we have not looked at.

Senator KIRK—The most up-to-date figures I have in relation to people who are being held in so-called other detention is approximately 136.

Mr Davis—The figure I have as at 19 May is 136, yes.

Senator KIRK—We do not have any information as to the breakdown of the ‘other’—that is, hospitals, prisons, motels and what have you. Would you be able to provide us with that breakdown?

Mr Davis—Perhaps I could take that on notice. We would have to interrogate our systems to see to what level we could provide of any further breakdown.

Senator KIRK—You must have some track, though. You must be able to keep track of where these persons are. One would hope so.

Mr Davis—Indeed. For detainees in the care of the service provider we get regular reports on detainees who are in hospital and these other places. But for how many are in prisons, for example, and are not in the care of our service provider we would need to interrogate our systems to get that level of detail, because it is completed by our compliance officers in our state offices. It is a matter of looking through a number of sources to get that level of detail. People who have come into immigration detention following Fisheries detention, for example, are part of that figure as well. Again, we would need to interrogate a number of sources to be able to break that figure down.

Senator KIRK—You might also provide us with the cost per day per detainee for persons in other detention facilities.

Mr Davis—That is even harder. The reason it is even harder is that virtually every state has a different cost associated with holding someone in immigration detention in, for example, a prison. People in hospitals obviously have a range of different care and other costs that might accrue to them while they are there. That is probably an even more difficult question than the first one. But we will see what we can do.

Senator KIRK—Who bears that additional cost—the department?

Mr Davis—Generally we do, although as part of the contract a detainee who is in a local hospital will be covered by the general service fees that we pay rather than by a separate payment. It partly depends on where the detainee is but it also depends on what sort of procedure or other thing might be going on. For state prisons, we pay all state governments a cost per day for detainees who are in immigration detention in a state facility. But, as I say, almost every state has a different price.

Senator KIRK—Whatever details you can provide to us, that would be appreciated.

Senator LUDWIG—I do not want to verbal the minister on this, but I recall her saying that if you took what you read in the newspapers you could paper the wall with some of the claims. The one that I have—and I am happy to provide it to you—is headed ‘Asylum Fiasco’. It seems that in this instance the airline tickets might have been able to paper the wall rather than the newspapers. Is that true?

Ms Godwin—That it was a fiasco, that they could paper the wall or what? Sorry.

Senator LUDWIG—All of the above, I suspect.

CHAIR—Ms Godwin is not in a position to answer all of the above.

Senator LUDWIG—Did you really send the asylum seeker on a taxpayer funded trip halfway round the world in a futile search for a home?

Ms Godwin—We are aware of it. In fact it is a case that was discussed in estimates—not last estimates, I think, but the estimates before that. This was a removal where we had reason to believe that the person came from a certain country. We took steps to remove him to that

country, pursuant to our obligations under the Migration Act. In the event, although that country had indicated that if he could get to a place where they had a mission and they could check his bona fides they were likely to issue him with a document for entry, when it finally came to the point they were not able to verify his identity. They therefore, reasonably, did not issue a document for his entry to that country. Rather than have the person remain in limbo, we returned him to Australia so that we could continue to pursue appropriate removal action. This is not a common occurrence, but clearly these things happen from time to time. We believe it was appropriate and responsible to continue to assist that person, including bringing him back to Australia, so that we could establish what his identity was and where he might be able to return to. But the original decision was based on the best information we had at the time. It was not just some sort of cavalier attempt to see whether there was somewhere we could take him. Obviously I do not want to go into too much detail, because it is an individual and there are privacy considerations.

Senator LUDWIG—I have not used his name.

Ms Godwin—I appreciate that, Senator. That is why I am being general in the comments I am making. I do not know whether Mr Williams wants to add anything.

Mr Jim Williams—Again, without being too specific, it is hard to answer.

Senator LUDWIG—I did want to establish whether or not the article was correct in the claims that it made about the length of the journey, the time it took, the cost of the journey and the number of people that accompanied the person on the flight. You also sparked interest in another question: how many other times might this have happened? If it has happened, perhaps similar details can be provided about that. If you say they cannot be provided in an open forum, they seem to have been provided by freedom of information to the journalist concerned, so it would be surprising if you could not provide those details here. But I am happy for it to be taken on notice. You might want to consider whether you make a request for the person's name to be kept in confidence. That is a matter that you would have to request. I would not suggest it at this point. Can you do that?

Ms Godwin—Can I clarify this: do you want us to work from that specific article and, in a sense, tell you whether the claims in the article are accurate?

Senator LUDWIG—I can go through it and ask you in relation to—

Ms Godwin—I understand; I just want to make sure that, in responding, we give you the totality of what you are pursuing. If we work from that article—

Senator LUDWIG—Yes, if you work from the article, and also some of the additional comments I have made in relation to it, we will get the gist of it. If there is anything left out, I suspect we will be back again, and I can follow it up then. When did that occur, roughly? You said it was a while ago.

Mr Jim Williams—It was December.

Senator LUDWIG—So it was not that long ago. How many other similar instances have occurred in the last five years?

Mr Jim Williams—Very rarely. You are asking whether a person has been removed and then had to return. Is that the question?

Senator LUDWIG—Or have gone on a bit of a caravanserai as a consequence.

Mr Jim Williams—There was no caravanserai as a consequence.

Senator LUDWIG—Thirteen days, 24,000 kilometres? Do you want to say that is not a caravanserai?

Mr Jim Williams—Yes. The person was en route to their country of origin. The country of origin did not accept them at the transit point just prior to, and they came back via a pretty similar route.

Senator LUDWIG—Those instances, then: how many times has that occurred?

Mr Jim Williams—Probably two or three, from memory.

Senator LUDWIG—Can you provide details of those and the cost involved, how many guards were involved and the destination, if possible. Similarly, can you provide the reason why the person was then not accepted.

Ms Godwin—Senator, we will take it on notice and we will provide as much information as we can. But we do not have a database on that. It will depend on whether we can, in a sense, recall the cases and then we will have to individually check those cases. So we will see what we can provide.

Senator LUDWIG—They would stand out in your mind, wouldn't they? I just imagine they would stand out if you had gone all the way over to a country and then come back again.

Mr Farmer—That is right. My colleague is saying that, with respect to the ones that stand out in the mind, we will try to interrogate our records.

Senator LUDWIG—If you miss one, I won't complain.

Mr Farmer—Thank you very much.

Senator LUDWIG—In respect of this particular one, do you need the 'one' to identify it? I think we have it clearly in our minds.

Ms Godwin—No, I am familiar with the headline.

Senator LUDWIG—Before he left, was there a guarantee that the Sudanese government would accept the person? I am just trying to get an appreciation of the matter.

Ms Godwin—Sure. Again, we did actually go through this a little bit. I do not know whether it was—

Senator LUDWIG—I cannot recall it so it must not have been—

Ms Godwin—It was in estimates in December or February; I am not sure which. The situation is that for a lot of countries in Africa—and that was the case here—there is no representation here in Australia. Getting documents is always a complicated matter. In a number of instances what we have done, with the agreement of the countries involved, is take the person to a place where there is representation and where documentation can usually be issued. Obviously in that situation it is open to the country involved to say, 'We thought this person might be one of ours. We therefore agreed to let them enter on a transit arrangement so that we could verify them, but now we have established that they are not so we won't give

them the right of entry.’ That is what happened, as Mr Williams mentioned, at the transit point immediately prior to the country that we thought he was from and he had claimed to be from.

When we went to the mission and provided them with the documentation, they were unable to verify his identity and they therefore did not issue documents. The country where he was in transit agreed that he could stay there for a period of time on transit in order to give us sufficient time to try to seek a document for him. When it was clear that we could not get a document and that his period of transit was expiring, we then agreed that we would not, in a sense, do anything untoward with either that country or his country of origin. We therefore agreed that he could return to Australia while we undertook further inquiries.

Senator LUDWIG—That person claimed to be from that particular country—is that right?

Ms Godwin—Often this is a process of trying to build up a—

Senator LUDWIG—I am sorry; that is what you said.

Ms Godwin—Yes, I did. There was a range of information that he had given us which indicated that that was the country he was from.

Mr Jim Williams—I can clarify here: he told us he was from that country.

Senator LUDWIG—Had the person been through a determination process? Through the RRT? It would have been through the internal DIMIA determination process.

Mr Jim Williams—Yes, the person had been through a visa determination process.

Senator LUDWIG—Including the RRT?

Mr Jim Williams—I think so, yes.

Senator LUDWIG—Had they made any determination as to country of origin, from your recollection?

Mr Jim Williams—I do not know. I would have to check.

Senator LUDWIG—If you would not mind. The other area was in relation to the same issue. Is the company involved one that DIMIA have a standing contract with?

Mr Jim Williams—No. They are engaged on a needs basis if there is a suitable case, but we do not have an ongoing or standing contract with them.

Senator LUDWIG—Perhaps I could get some details about that contract then. Is that the only contract you had with them in relation to this one person? There is a company that is mentioned in this. I guess they assisted in the overall process. Is that same company used more than once or was that a one-off?

Mr Jim Williams—We do use companies like that more than once but each instance would be an individual contract. Each case they are engaged to be involved with is an individual contract. We do not have a standing escort services contract with that company.

Senator LUDWIG—Could I get the cost of that contract?

Mr Jim Williams—Of the individual returned that we are referring to?

Senator LUDWIG—Yes.

Mr Jim Williams—Yes.

Senator LUDWIG—And if there are any others or any other contracts of that nature that you have used in the last couple of years.

Mr Jim Williams—We use a variety of services for removal. Sometimes, for example, we use, with the agreement of their employing agencies, off-duty police and corrective services officers from states where the costs are structured entirely differently. We might use a private company or we might use our detention services provider—GSL or, in the past, ACM. There will be a wide variety and the structures of the costs will be quite varied too. If it is an off-duty police officer, they are not usually charging a commercial rate.

Senator LUDWIG—You can take the question on notice if you think there is a reason to justify why there is a variation in cost between the cases.

Ms Godwin—There is one other point to make. In one sense, just picking up on Mr Williams's point, it is almost impossible to compare each individual case because there are so many variables, one of which is that the airlines themselves have their own requirements about the number of escorts. In one instance someone might go with one or two escorts but in another instance there might be three. Sometimes a nurse accompanies a removal. There are a whole variety of circumstances—and some of the requirements are not dictated by us but are the requirements of the particular airline that has agreed to—

Senator LUDWIG—I was not making the comparison. I think Mr Williams volunteered as to why I could not make a comparison.

Ms Godwin—I am just adding another reason why we cannot.

Senator LUDWIG—I only asked for the information.

Ms Godwin—We will certainly provide the information.

Senator LUDWIG—Whether or not I was going to use it for comparative purposes I had not considered. I may look at it in that light now, thank you. Is the degree of interface between DIMIA staff and Customs at international entry points still under output 1.3?

Mr McMahon—Yes, that is under 1.3.

Senator LUDWIG—The role that DIMIA plays in the processing of incoming passengers in Australian international airports is one of the areas I want to pursue. When an international passenger comes into Australia, does DIMIA work with Customs or is there a separate contract that DIMIA has with Customs to undertake immigration detection work, or border control work?

Mr McMahon—In effect, Customs provide the primary line services. They perform a number of functions which are subject to the Customs Act, but they also effectively act as our agents in identifying passport anomalies, visa issues et cetera. It is their job to refer any anomalies that would be associated with an immigration function to the secondary line. The secondary line is obviously a whole lot smaller than the primary line. For example, there are something like 17 million movements a year while there would be of the order of 230,000 referrals to the secondary line. Those referrals could include referrals about Australian citizens' or other people's passports or other anomalies, and it is our job to determine that they have a lawful basis for entering the country—to pick up and pursue issues about identity fraud, to sometimes resolve visa anomalies and that sort of thing.

Senator LUDWIG—I suppose the main focus of DIMIA would be at the secondary line.

Mr McMahan—That is us, yes.

Senator LUDWIG—Does Customs come with you onto the secondary line?

Mr McMahan—No, the secondary line is the immigration line, in effect. What tends to happen, particularly at a bigger airport like Sydney, is that you have the primary line operating, an immigration person standing behind the primary line and additional immigration people in the back office. As issues arise, some would be determined by the senior person standing behind. But, no, the secondary line is an immigration line.

Senator LUDWIG—The person standing behind the primary line is an immigration official, so would customs officials dealing with passenger processing refer issues to the person standing behind if they thought there was an immigration irregularity?

Mr McMahan—That is correct.

Senator LUDWIG—They might pick up an issue themselves by observation, I take it.

Mr McMahan—Correct. Obviously the secondary line examination is often much more intensive and longer than the primary line examination. If there is a concern about a passport, for example, and the authentication process will pick up various types of issues, they would be referred to Immigration for resolution.

Senator LUDWIG—So there is no Customs persons on the secondary line?

Mr McMahan—That is correct.

Senator LUDWIG—Could you describe the role on the secondary line?

Mr McMahan—We are there to ensure that people are entering lawfully under the Migration Act, so in effect we are there to ensure that the person who is coming in is really an Australian citizen, for example, if there is an anomaly with the passport. If they are not an Australian citizen, do they have a lawful basis for entry? In some cases what has been picked up is obviously passport fraud. There is the important issue around bona fides. A person may actually be coming with a visa but there may be concerns about them. A good example would be a person who is coming to attend a conference. The primary line may simply ask, 'Would you show your tickets for going on to the Brisbane conference?' If they do not have any and they do not have any bookings in Brisbane that would give rise to a concern. That would then be referred to the secondary line and we would then work through the issues in detail, in a much more intensive examination.

Senator LUDWIG—Is a secondary line in operation at every international airport in Australia?

Mr McMahan—Yes.

Senator LUDWIG—Including Townsville?

Mr McMahan—No, we do not have a presence in Townsville. Where we do not have a direct presence we deal remotely with the Customs officers, and that would be serviced out of Cairns.

Senator LUDWIG—Is that the only place that happens?

Mr Frew—There are on occasions where international flights may go from somewhere in the far north-west of Western Australia, for argument's sake, so in those ad hoc arrangements we make arrangements to deal with it remotely.

Senator LUDWIG—How is that dealt with remotely? Is there a contract between Customs and DIMIA?

Mr Frew—It is not a contract. There are a series of MOUs between Immigration and Customs about how these arrangements operate.

Senator LUDWIG—If we use Townsville as an example, is there an MOU between DIMIA and Customs to deal with it?

Mr Frew—I do not know if there is one that relates specifically to the operation of that airport. I would be happy to take that on notice. I think it is just covered more broadly by the MOU that describes the arrangements between Immigration and Customs at primary control points at the airport.

Senator LUDWIG—Is the MOU available to the committee?

Mr Frew—May I take that on notice?

Senator LUDWIG—Yes. The specific point I was looking for was what arrangements you have for Customs to deal with immigration matters both at the primary line, in the initial observance and detection of immigration matters, and then in the secondary line, where Customs officials would be using whatever skills they have or you have trained them with to ensure that any immigration irregularities are picked up.

Mr Farmer—In taking it on notice, we could certainly undertake to honour the spirit of your question—in other words, if anything in an MOU has procedures that we would not want to be made public for legitimate reasons then we would at least give you a narrative version to answer your questions.

Senator LUDWIG—Yes. I was not sure of the length or breadth of the MOU and it certainly may contain information that (a) I am not interested in or (b) I have not asked for or (c) may be commercial-in-confidence or provide some other reason for my not needing to see it.

Mr McMahon—We will certainly try to get that detail to you. But, more broadly, where we are not there they do actually exercise powers under the Migration Act.

Senator LUDWIG—That is the next question I was going to. I am happy to hear from you about it.

Mr McMahon—They do not have the same level of expertise necessarily about issues. If they picked up a visa anomaly or a concern about bona fides, they would refer it to Immigration. With respect to Townsville, if the Cairns office, for example, was not open, they would refer it to our entry operations centre, which is a 24 by 7 centre. If there was a serious concern we would seek to have an attendance there, and that obviously could be delayed. Some people are detained for periods of time simply because they cannot satisfy the people at the primary line or the secondary line about their bona fides. In the end, one way or the other, we resolve it. Certainly we can do things like call up applications et cetera.

Senator LUDWIG—How is Customs provided with the power under the Migration Act?

Mr McMahan—It is simply delegated in the same way that migration officers have to be delegated the power under the Migration Act.

Senator LUDWIG—In examining this particular point I am seeking from you the following information, which you may wish to take on notice. How many MOUs exist and how many airports are there where this occurs? What is the number of passengers that might end up being processed by Customs officials in this way under the MOU at those particular airports? Which are the airports where DIMIA does not hold a presence or where, even if you do hold a presence, you still use Customs as well? Does that happen? We can rule that question out if you do not do that but it just dawned on me that you might use their assistance.

Mr McMahan—It is a theoretical possibility. I cannot think of the circumstances in which that would happen. Clearly the number of passengers we are talking about would be well below one per cent of passenger movements but we will take that on notice and try to get the answers as best we can.

Senator LUDWIG—The Customs officers effectively carry out the immigration duties—

Mr McMahan—That is correct.

Senator LUDWIG—at both a primary line and a secondary line of the operation. Is there a tertiary line?

Mr Killesteyn—That would be quarantine.

Senator LUDWIG—Do you have an MOU with quarantine for them to do immigration work?

Mr McMahan—Very broadly. In the overwhelming number of cases the answer is no. We have some arrangements in the Torres Strait, particularly through the movement monitor type arrangements, where, through sheer necessity, we perform duties for each other.

Senator LUDWIG—Is there an MOU on that?

Mr McMahan—There is certainly an arrangement. I would have to take on notice the question of whether or not there is an MOU.

Senator LUDWIG—If there is an arrangement that is reduced to writing I would like to have a copy of it. The same rules apply: I am interested in the relationship between DIMIA and quarantine in this instance about how those powers are transferred and exercised and the scope the quarantine officers have in exercising immigration powers.

Mr McMahan—Yes.

Senator LUDWIG—I am curious: does the chief executive officer delegate that power from Immigration to Customs? Would you, Mr Farmer, sign an order?

Mr Farmer—In some cases they might be ministerial delegations.

Senator LUDWIG—Perhaps you could take on notice the question of how the mechanics work. I cannot recall seeing it in the act; it is probably in the regulations.

Mr McMahan—When you ask about the mechanics do you mean under what head of authority under the act?

Senator LUDWIG—Yes. What is the head of authority under the act? What regulation is used and how is it put into effect? Is there a letter signed by the minister, Mr Farmer or someone else who has been delegated the power to give the Customs officer the immigration authority?

Mr McMahan—The way it works is that the minister has the power to delegate her authority. From time to time we would identify positions that would require her to exercise some power under the Migration Act. It is not comprehensive, as you would understand; we would have to specify what particular powers we would allow a person to exercise. They are approved and we would then advise Customs in those particular circumstances.

Senator LUDWIG—Is it gazetted? I recall that in a previous occupation, if we were granted a particular power by the minister from some other area, then you would be delegated that power and it would be gazetted so there would be a record of how you obtained it. The reason is that, if you ended up in a prosecution in relation to the exercise of that power, you needed a trail as to how you got it.

Mr McMahan—We will confirm it, but I know of no gazettal.

Senator LUDWIG—Or some other way. There must be a paper trail or a letter that provides them with that power; otherwise, the courts will ask exactly the same question I have: how do they exercise that power?

Mr McMahan—We will get a statement of the process.

Senator LUDWIG—And the duties, of course, will vary depending upon what the requirement of the job might be.

Mr McMahan—That is correct.

Senator LUDWIG—You might include an example of one in the answer—perhaps the Townsville example. Townsville seems to be a good example and at least I have seen that operation—at least we have talked about it. In relation to arrival by sea, does DIMIA process all persons who arrive by sea?

Mr McMahan—Customs does that on our behalf.

Senator LUDWIG—Is there an MOU in there as well? That is my term but you might call it something else.

Mr McMahan—May I take that on notice, please?

Senator LUDWIG—You do not know?

Mr McMahan—I think there is, but I would want to be sure before I told you.

Senator LUDWIG—Or is there an agreement with Customs?

Mr Farmer—There is certainly a very longstanding working arrangement. What we are saying is that we will check the formal basis of that.

Senator LUDWIG—Do you want me to go through the same issues that I have just gone through or do you have an understanding of the area of interest I have in trying to understand the relationship, how it operates and what powers it delegated?

Mr Farmer—Yes. At this moment I am not sure whether there is any delegation of powers or whether—

Senator LUDWIG—I have been assuming there is.

Mr Farmer—Yes, but there may be just another formal process, where certain people are, in effect, nominated or declared to be migration officers for the purpose of the Migration Act. So it could be not a delegation to begin with but a nomination procedure.

Senator LUDWIG—They could exercise immigration powers under that act.

Mr Farmer—Yes.

Senator LUDWIG—When Customs do it in relation to sea arrivals, is there a way of checking the data? Customs then do the passport work. Is a list forwarded to DIMIA at some point showing who has arrived and who has not?

Mr Farmer—We can set out that process for you.

Senator LUDWIG—How many people are involved in that? Are all the seagoing passengers covered by that or are there any ports which DIMIA do?

Mr McMahon—Passengers are processed by Customs. We certainly have arrangements with Customs for things like training. We have a presence there from time to time. We may visit ports for a number of reasons to satisfy ourselves about the processes to provide assistance. We are on call if Customs have particular concerns about the people or the documentation. The MAL—movement alerts list—operates and, consequently, there may be occasions when, even before the person arrives in the country, there is something which may be of concern to security agencies such as AFP or whatever, and we would need to deal with that with Customs and other agencies. In a number of cases now, we are getting advanced passenger processing. For example, the crews and passengers of ships come through our advanced processing system. They have a subsequent MAL check on our mainframe, so we would be alert to some of the movements well ahead of time. Sometimes they end up being issues at the border as well.

Senator LUDWIG—So you do not have a secondary line in seaports where there are immigration officials, or very rarely?

Mr McMahon—That is correct.

Senator LUDWIG—We have done sea and air, and there is no land border. Do you have any arrangements with other agencies to undertake immigration checking work on your behalf?

Mr Killesteyn—Are you just talking about passenger processing?

Senator LUDWIG—Yes, just in the area we are talking about, which is passenger processing and immigration work in the sense of picking up passports, checking passports and early detection work.

Mr Killesteyn—Not at the Australian border.

Senator LUDWIG—There was a question on notice to the House on 19 February 2004 which dealt with people smugglers. It asked:

With which countries has Australia entered into bilateral arrangements concerning people smuggling and the return of illegal arrivals.

The minister replied:

Australia has a range of return arrangements with a number of countries.

And it goes on, and the list of countries did not include Indonesia. I was curious as to why. Do you have another arrangement in place with Indonesia?

Mr Killesteyn—We have informal arrangements with Indonesia which we have discussed in this committee before. That particular arrangement is known as a regional cooperation arrangement. Essentially, it is of a different character to the ones that were expressed in that particular question. The regional cooperation arrangement is simply an arrangement whereby people who are in Indonesia and who may have an intention of seeking illegal entry into Australia can have any asylum claims processed in Indonesia, with IOM looking after their care and UNHCR doing the processing. But, in the sense of that question of a return arrangement, there is no such arrangement with Indonesia.

Senator LUDWIG—It is effectively a regional cooperation arrangement, then?

Mr Killesteyn—Yes. We are talking about a different character here because, essentially, the agreements that were referred to in that question are with countries which might be described as source countries, whereas with Indonesia our arrangements operate quite well informally. If we have Indonesian citizens here in Australia who are found to be in breach of visa conditions, for instance, or who have overstayed or are working illegally, the Indonesian Embassy here is usually quite cooperative in arranging for the return of those persons. The Indonesian fishermen are a good example of where we have very few problems in making arrangements for the return of Indonesians. So there has not really been a need for us to enter into any formal arrangements.

Senator LUDWIG—In relation to those other countries, are the arrangements all in writing?

Mr Killesteyn—I think they are broadly in writing. I will have to ask Ms Greaves.

Senator LUDWIG—Perhaps you can take that on notice.

Mr Farmer—A number of them are not available. On the arrangement with Iran, for example, the government of Iran asked that the agreement be maintained as confidential.

Senator LUDWIG—Apart from that caveat where a country has asked for it to remain confidential between the parties, I would ask for a copy, please. In terms of how they work, if, for example, a boat of asylum seekers arrived from Indonesia and was intercepted by Australia before it reached the Australian migration zone, do both Australia and Indonesia fully agree on the respective obligations under the arrangement that is in place?

Mr Killesteyn—If you are talking about Indonesian citizens as distinct from others, we have international and domestic obligations. If Indonesian citizens are coming to Australia to seek asylum, it would simply be a matter for Australia to determine whether there is any engagement of our international obligations. We would be very careful not to immediately enter into arrangements with Indonesia because we might be in breach of our non-refoulement

obligations. There are different arrangements, of course, depending upon the citizens that we are talking about and the claims that they are making in coming to Australia.

Senator LUDWIG—And if they are not Indonesian citizens?

Mr Killesteyn—If they are not Indonesian citizens and they engage our protection obligations, we would undertake—

Senator LUDWIG—This is before they reach the Australian migration zone.

Mr Killesteyn—If they are intercepted prior to reaching the migration zone, there would be a consideration of how we would deal with those people. In some cases, certainly in the past, they have been brought to Australia. In more recent times the government has decided that processing arrangements should be established offshore, and the Nauru and Manus centres have been used for that purpose over the last few years.

Senator LUDWIG—What about a boat that has come from Indonesia and has then arrived at Melville Island? The one that I recall was the *Minasa Bone*. Were the Indonesians and Australians in agreement as to how that should be handled?

Mr Killesteyn—In that case we based the return of the individuals on board the *Minasa Bone* on the arrangement that I described earlier, under the regional cooperation arrangements. We had had in place the regional cooperation arrangements since about June 2000. These arrangements had worked very well. In fact, close to 4,000 people have been processed through the regional cooperation arrangements since June 2000. We were confident that, in returning the 14 Turkish nationals, upon arrival in Indonesia they would be looked after by IOM and they would have their asylum claims assessed by UNHCR.

Senator LUDWIG—Did the Indonesian government agree on the way they were to be handled?

Mr Killesteyn—We returned the 14 Turkish nationals to Indonesia and we advised the Indonesian government that we were doing so.

Senator LUDWIG—That is not an agreement, is it?

Mr Killesteyn—The regional cooperation arrangements have been working very well; in the past they have done so. In returning the 14 Turkish nationals to Indonesia we advised the Indonesian government. They did not indicate any concern about the action of the Australian government and, upon arrival, they were taken into custody by the Indonesian authorities. There were arrangements made by the Indonesian authorities with IOM to transfer them from the point at which they arrived in Indonesia to Jakarta. Upon arrival in Jakarta they were then put under the care of the International Organisation for Migration and the UNHCR took over the asylum claims processing. If that is not agreement, I am not sure what is.

Senator LUDWIG—There was a statement made by Mr Marty Natalegawa, an official of the Indonesian government, reported on AAP on 15 November about Australia's handling of the *Minasa Bone* matter. He said:

Agreement was not sought, nor was it given by Indonesia, to this decision by the Australia authority to basically expel them out of Australia. Information was shared with us that the boatload of people were to be driven out of Australia again in the direction whence it had come from. In this case we were not

asked for agreement, nor is it our intention to reach agreement, to Australia's action, because to do so would be to give a blessing.

There does not seem to be an agreement there.

Mr Killesteyn—There were a number of statements made by officials from the Indonesian government. There were certainly others that indicated that they were supportive of our action. As I said, the process went very well. We advised the Indonesian government prior to the arrival of the 14 Turkish nationals back in Indonesia. The arrangements that were made for their transfer from that point—which I think was the port of Samlaki in southern Indonesia—to Jakarta were made in cooperation with the Indonesian authorities. In practical effect, this whole thing worked out without any problems at all.

Senator LUDWIG—Do the regional cooperation arrangements require Indonesia and Australia to agree on how to handle boat arrivals such as that of the *Minasa Bone*?

Mr Killesteyn—The regional cooperation arrangements are informal arrangements with the Indonesian authorities. They have worked very successfully since June 2000. A large number of people have been put through these arrangements. I think that both the Australian government and the Indonesian authorities understand the particular roles that each plays.

Senator LUDWIG—How many persons have been put through them?

Mr Killesteyn—I think I gave these figures to the last committee. At that point it was about 3,900, but I will get some updated figures for you. It might have eclipsed 4,000 by now.

Ms Greaves—There are 3,930 that have been through as at, I think, the end of April. Of these, 376 currently remain in IOM care, 802 have voluntarily returned home and 817 have been found to be refugees and have been resettled to third countries.

Senator LUDWIG—I will move on to illegal foreign workers. There was a recent raid on three restaurants in Sydney which received broad media coverage. Can you advise when the *Daily Telegraph* was advised of the raid?

Mr McMahan—The *Daily Telegraph* had approached the department to participate in some of our compliance activities to get a better understanding of them and also to get information from us in respect of some other areas, including sex-trafficking type areas. As I understand it, the *Daily Telegraph* was not alerted in particular to that compliance action but that compliance action came up during the time in which it was involved in this process of working with the department.

Senator LUDWIG—Is that usual? They were not working with the department, were they? They were not assisting them in their operation. They were—what do the Americans call it?—put in with you, were they?

Mr McMahan—I will rephrase it.

Senator LUDWIG—Deep cover.

Mr McMahan—They were not in deep cover either. In effect, they approached the department to get a better understanding about our activities. We entered an agreement with them. That agreement was along the lines of, 'Yes, you can come along on some of our compliance activities. You will not be under the warrant of the department. Once you go

there, it is a common law type issue with the owner of the restaurant having the ability to ask you to leave.’ They were asked to leave and they did leave.

Senator LUDWIG—Wouldn’t that have the potential to compromise your operation? They are obviously not immigration officials. They could taint evidence. They could do a whole raft of things that might cause an eventual prosecution to fall over as a consequence. They might even cause injury themselves.

Mr McMahan—They enter under their own legal standing. The only way the activity could really have been compromised was, if by alerting them to the compliance action, they had alerted the restaurant or whatever.

Senator LUDWIG—They could have. They have mobile phones. They know where you are going. They know what type of operation you are doing.

Mr McMahan—It is possible. It is hard to understand why they would do so.

Senator LUDWIG—The father involved in the restaurant might have prompted them to do it.

Mr McMahan—The bottom line is that they did not. In terms of our assessment, there was no serious risk that they would. There is no evidence issue. Because we are not going to prosecute the people working there illegally, the only issue is an issue of fact.

Senator LUDWIG—Are you going to prosecute the restaurant?

Mr McMahan—We do not prosecute the restaurants.

Senator LUDWIG—You can though, can’t you? You have that power?

Mr McMahan—We do not actually have the power under the Migration Act—

Senator LUDWIG—Or the employers.

Mr McMahan—but there is aiding and abetting offences under the Crimes Act. It would be an AFP responsibility in this case. We would make a referral that they knowingly employed. Knowingly employed is a reasonably high standard for them to undertake. For all practical purposes, it is extraordinarily unlikely that we are going to prosecute Doyles. The only issues for us are issues of fact. Did the people involved whom we found have a visa? Alternatively, for those who had a visa, was what they were doing consistent with the conditions imposed by the visa itself?

Senator LUDWIG—Was the agreement that you had with the *Daily Telegraph* a verbal agreement or is that agreement available?

Mr McMahan—It is a signed agreement.

Senator LUDWIG—Is that available to the committee?

Mr McMahan—I would have to take that on notice.

Senator LUDWIG—Why would you have to take that on notice, Mr Farmer? I just think it is very strange to enter into arrangements with newspapers. Is this the first time you have done it? It is certainly the first time I have heard about it. Maybe I have not asked the right questions in the past.

Mr Farmer—I do not know the answer to that. Certainly in the past we have had understandings with media—for example, that media who were allowed into the detention centres would—

Senator LUDWIG—I accept that and understand it. It is about media wanting access to public interest issues and things like that. This is, I think, different from that. This is going on a raid—though I don't like to use that word—on a restaurant. You get into your cars and you race off into the target zone. You enter into an arrangement which is then produced in writing. What obligations are included? Why the *Daily Telegraph*?

Mr McMahon—It is not the first time and it will not be the last time.

Senator LUDWIG—Then the contract should be available to the committee. If it is not the first time and it is not going to be the last time, it would seem to be an ordinary event for you—as novel as that might be. I am not here to judge.

Mr McMahon—Yes. We will take the question on notice. The thing I cannot answer is whether or not there is a commercial-in-confidence nature to it that would cause difficulties in its release. I am not suggesting that there is; I am simply saying that we would need to run the ruler across that in terms of our obligations.

Senator LUDWIG—In this instance I would press a little bit harder, because we are entitled to that information. I usually respect your judgment on a lot of the things you say should be respected because they are confidential. I do not think this one is—not from a media outlet.

Mr Farmer—I believe that when people go into the detention centres we do have some sort of—

Senator LUDWIG—And I can accept that.

Mr Farmer—I am simply saying that I believe we have some sort of signed undertaking. I think it would be unusual if there is any reason why we should not make this available to you.

Senator LUDWIG—Is it usual for 50 DIMIA staff to attend such a raid; is this something that you do often? There were 50, I take it.

Mr Killesteyn—That is correct. It was somewhere between 45 and 50, but you have to realise this was not just one restaurant; there were several involved and it was across—

Senator LUDWIG—Three, I think.

Mr Killesteyn—It is not as if 50 immigration officers descended on one establishment; it was straight across—

Senator LUDWIG—They descended on three, didn't they?

Mr Killesteyn—That is true.

Senator LUDWIG—More than a car a piece.

Mr McMahon—But, as for whether it is unusual, the answer is no. For large operations in Sydney it is not unusual and in many cases significant logistical issues are involved. Factories et cetera might have six or seven entrances and there is the need for containment for the

screening of people. There are certainly many compliance activities which are much smaller than that, but it is not unusual to have large ones like that either.

Mr Killesteyn—It is also important to note that 10 or 11 individuals who were working illegally were located, so it was a very large number.

Senator LUDWIG—The *Daily Telegraph* reported that in the past 12 months around 3,400 illegals were located. What do you call them? You do not call them illegals as such; they are people who do not have a visa—

Mr McMahan—Or people who are in breach of a visa. We generally call them locations. For example, last year we had about 21½ thousand locations.

Senator LUDWIG—During 2,700 visits to premises throughout New South Wales. Do you have a compliance section?

Mr McMahan—We have a large compliance presence in New South Wales.

Senator LUDWIG—The article went on to say that in the past year 1,940 illegals had been removed from Australia. How many times would a raid of that size—50 immigration officers—have been contemplated by your department in the last 12 months?

Mr McMahan—I would never be able to answer that question precisely, but if you want me to take it on notice I can provide a description of our raids.

Senator LUDWIG—As much as you can without putting the department to too much work. Would 2,700 visits be the correct figure? In the past 12 months, do you know how many locations you would have visited throughout New South Wales?

Mr McMahan—I have not checked that figure personally. I believe it was provided by the New South Wales office. I think we would have to take that one on notice.

Senator LUDWIG—All right. The question that really arose out of that was: how many of those companies had received departmental warnings previously?

Mr McMahan—We have issued about 1,600 illegal worker notices. Are you actually asking for a cross-matching between them? I think it would be a huge effort to try to break it up in any particular way. But I can give you details of an illegal worker notice system.

Senator LUDWIG—Have a look at your records and see what is available. If it is going to create a significant workload, come back to the committee. I cannot imagine why you would not have something, in a compliance division. If you were going to conduct a raid on a premises, it would not be a fresh one, for the first time, unless you had significant intelligence about it. If you were doing a follow-up, you would already have it on the books—you would already know there has been a warning issued in relation to illegal workers and you are following it up. I am not sure why you would not have those sorts of records available. But if you do not then provide whatever you have available.

Mr McMahan—I will certainly take it on notice. We need to go in each time on the basis of specific intelligence, data matching or whatever. It is quite clear that a number of the companies that we go into actually have illegal worker notices which have been issued previously. We supplied some data in one of the questions.

Senator LUDWIG—Question on notice No. 54 from last estimates advises that 508 companies had received warning notices for employing illegal foreign workers.

Mr McMahan—Correct. We do not issue an illegal warning notice necessarily in respect of each visit. We would have to be satisfied that there was some evidence that the people may have been doing it recklessly or knowingly.

Senator LUDWIG—Of those 508 companies, do you sort them by industry type or work type as to what likely employment is being conducted at those premises?

Mr McMahan—We certainly do a lot of analysis. To give you an indication of where the main concerns have been in respect of illegal worker warning notices, in 2002-03 we issued 1,613. Of those, 464 were around accommodation, cafes and restaurants; 126 were in forestry and fishing; 110 were in construction; 321 were in manufacturing; and 211 were in retail or trade. I have not gone through them all, but they are the bigger ones.

Senator LUDWIG—Are you able to break that down by the 42 companies that received further warning notices? That was referred to in question 54.

Mr McMahan—You would like to know for those who received—

Senator LUDWIG—The type of work or the industry in which they were employed.

Mr McMahan—We can take that on notice.

Senator LUDWIG—Has any employer being charged for employing illegal foreign workers under the Criminal Act?

Mr McMahan—There have been one or two cases under the Criminal Code, but they are few and far between simply because of the standard of proof required.

Senator LUDWIG—If you could just give us a short synopsis of where that has occurred, it would be helpful. Question on notice No. 54 also went to the review of illegal workers in Australia that was published in 1999. It recommended the introduction of sanctions from employers who repeatedly and knowingly employed illegal foreign workers. Is the department acting on that recommendation? Is there any legislation on the books?

Mr Farmer—That is currently being considered by the government.

Senator LUDWIG—What can you tell me about that? Is it in drafting at the moment?

Mr Farmer—There are a variety of issues being examined by the government.

Senator LUDWIG—What can you tell me about that variety of issues? To rephrase: what are you capable of telling me about that variety of issues, or are they still in the early stages?

Mr Farmer—No, they are not in the early stages, but it is being actively considered by the government. You might try with the minister.

Senator LUDWIG—Minister, the question related to whether there were responses that the government was considering in relation to illegal workers. One of those questions relates to the proposed Migration Legislation Amendment (Employer Sanctions) Bill. Where is that in the pipeline? Have drafting instructions been issued and is it being finalised?

Senator Vanstone—There are a number of things to be looked at in relation to that issue. It is not always an easy one. I understand that while I was out of the room you have been

canvassing some of the higher profile immigration raids over the last couple of weeks. One of the difficulties that employers raise in relation to that is the capacity to ascertain people's proper working rights. Incidentally, I do not think that a green card does it because it does not help you with a really difficult issue—that is, who is and who is not an Australian citizen, and who is an Australian citizen and entitled to work and therefore does not have the card. I am considering those issues. When I have something more to say about it, I will be sure to say it publicly.

Senator LUDWIG—Are you able to say whether there is draft legislation and whereabouts it is in the pipeline?

Senator Vanstone—All I want to say to you at this point is that I am giving consideration to those matters and, when I have something to say publicly about it, I will say it. I am indicating to you that I have private deliberations going on.

Senator LUDWIG—The department might be able to help me with this one: there was an article in the *Australian* on 7 April which reported that an immigration dob-in line designed to catch visa overstayers and illegal workers had drawn few responses. Has a database been kept on that line?

Mr McMahan—Yes, there has been. In the first 10 weeks of operation, it netted about 6½ thousand inquiries. Probably a little over 20 per cent of those actually resulted in referrals to compliance officers for follow-up. In other words, some were screened out, some were explained and some went to the compliance team.

Senator LUDWIG—Have those that went to the compliance team been acted upon? Have they been fruitful?

Mr McMahan—I can say they have been acted upon. Unfortunately, we do not have a break-up of what has actually happened. I can say that, as a general proposition, information from the public has been a very reliable and major source of our locations.

Senator LUDWIG—So you do not know whether the compliance division has been able to actually catch someone?

Mr McMahan—We know that they have caught people because we have asked that question. What we have not been able to do, to my knowledge, is have a ready basis on which we can track right through to the conclusion to give you the sort of number that you are now asking for.

Senator Vanstone—Senator, I have given some thought to this because I actually thought of the idea of the line. It wasn't a terribly original thought; it came from my previous portfolio, because Centrelink have a similar sort of line. All the advice I consistently got from Centrelink was that when you sorted out the wheat from the chaff the information you were acting on was very reliable. As I am sure you understand, people who are cheating on welfare need to know that someone else knows about it. Provided that you keep sweet with them, they probably will not ring up and reveal all to the authorities, but as soon as a relationship breaks down, a friendship breaks up, there is some annoyance at work or whatever, people ring up and say, 'Look, I've got something to tell you.'

Senator LUDWIG—It seems to be a standard way.

Senator Vanstone—Yes. In some cases the motivation may be very idealistic—they want people to stick to the law. It does annoy Australians when people help themselves to welfare that they are not entitled to, because they want it to go to people in need. In other cases it is a handy sort of payback tool that people might use. Whatever the case may be, the information can be very reliable and useful. So it occurred to me that it may be the same in this situation. We will evaluate this over a longer period of time.

One of the difficulties, though—I think I was asked in about the second or third week, ‘What’s happened?’—is that some compliance activities would take longer than others. How would you sort out information that was just adding to or duplicating stuff we already had? It is not going to be easy to 100 per cent attribute compliance things simply to this. If you say, ‘We will only count the ones where that is the only place we heard it from,’ you will be excluding others where people did use it, but we already knew. If you include the others, you are including things that perhaps, if we did not know the other part of the information, we might not have found useful. It is the same old story. It is a good idea to collect statistics to evaluate things, but the design of the collection is not always easy.

Senator LUDWIG—Is there a cost that can be attributed to the hotline? How many phones and staff are there?

Mr McMahan—There may be some small costs, but it was not a question of developing something entirely new. It was a question of integrating it with our telephone client service systems. There may have been a small cost at the time.

Senator LUDWIG—Is it an internal departmental phone line?

Mr Killesteyn—It goes into our telephone contact centres. We have a telephone contact centre in both Sydney and Melbourne. This is a special dedicated number, which is, for obvious reasons, for people to identify with a dob-in line. Then it goes into the normal contact centre and from there it is farmed out to the compliance teams.

Senator LUDWIG—So you are able to give us a breakdown of the statistics from that line. How many calls have been taken and how many have been referred on?

Mr McMahan—I have given them to you.

Senator LUDWIG—That was up to date. Is that at today’s date?

Ms Daniels—The figures that Mr McMahan was giving you—the 6½ thousand—are as at the end of April.

Senator LUDWIG—When did it start?

Ms Daniels—On 19 February.

Senator LUDWIG—Thank you. That was the sort of information I needed to establish the period that those calls related to.

CHAIR—Are you concluding in output 1.3, Senator?

Senator LUDWIG—I could probably put the rest on notice. I have a few more in this area but I suspect it would be easier for you to answer them on notice than to go through them here one by one.

CHAIR—I am inclined to say that we will move on but we may have to come back because Senator Bartlett had been, as you noted, waiting earlier. I am sorry to inconvenience the officers, if there is an inconvenience, but we will come back.

Proceedings suspended from 3.43 p.m. to 4.08 p.m.

CHAIR—We will continue on output 1.3, with questions from Senator Bartlett.

Senator BARTLETT—If I repeat questions we have already asked, please let me know. The technical malfunctions have just consumed some of my incisive questions, but it is better than a wardrobe malfunction, I guess. Has anyone asked about deportations to Iran and the MOU?

Mr Farmer—It was touched on briefly by Senator Ludwig.

Senator BARTLETT—It is still operational—the total number that it is now being used for?

Mr Farmer—No, we have not touched on the question of numbers of returns.

Senator BARTLETT—I think last time I raised this there were two people who had been deported involuntarily to Iran under the terms of the MOU—which I presume you still do not want to release or are unable to release.

Mr Farmer—That is correct. We touched on that earlier.

Senator BARTLETT—But there has been just one other person in recent times?

Mr Davis—Yes. The total is now three.

Senator BARTLETT—How many Iranians are left? It is in double figures, I think.

Mr Davis—In detention centres in Australia we still have 144 Iranians.

Senator BARTLETT—Triple figures. And they are all basically refusing to return voluntarily—there are none who have signed to return but have not been removed?

Mr Jim Williams—Yes. All those who have volunteered to return have already gone. It does not take all that long once you volunteer.

Senator BARTLETT—That number, 144, would be larger than that envisaged to be used through the MOU, wouldn't it?

Mr Davis—Once people are through all process—and many of them are still in some sort of process, predominantly court process—we continue to work with them to try to achieve a voluntary return rather than an involuntary return, both because there are people still in process and because we would not envisage all of those people going home on an involuntary basis.

Senator BARTLETT—Have you been able to ascertain one way or the other whether the one who was deported this year—I think last month—is okay?

Mr Jim Williams—I do not think we have had any report of any concern. We are unable to monitor in detail in a foreign country.

Senator BARTLETT—But you are not aware one way or the other?

Mr Jim Williams—Not that I know of.

Senator BARTLETT—In relation to that specific deportation, is there any procedural requirement or normal process of giving a certain amount of notice to lawyers of people before you deport?

Mr Jim Williams—There is no hard and fast requirement. Where possible, notice is given; but it is not always. If operational circumstances demand that no notice be given, sometimes that happens.

Senator BARTLETT—Without necessarily going into the specifics of each occasion, what sorts of things would operational circumstances demand?

Mr Jim Williams—There is sometimes a concern about how the person might react and a need for that to be carefully managed. If a person has too much forward knowledge then it is often difficult to manage. That is the sort of consideration that we take into account.

Senator BARTLETT—There are a number of questions I think I will put on notice about statistical details, but do you have an idea of how many applications there have been from people who are in detention for bridging visas, particularly on medical grounds?

Mr Davis—We do not have the number of applications that we have considered but we do have the number of grants. In the current calendar year, 30 subclass 051 visas—the special needs visas—have been granted, and medical grounds is one criterion within that special category of visa.

Senator BARTLETT—Is there an exhaustive list of criteria?

Mr Davis—Yes, the migration regulations have the criteria but, in a broad sense, it is under the age of 18 years, with special needs, over the age of 75 years or a spouse or a party to a genuine relationship with an Australian citizen, an Australian resident or an eligible New Zealand citizen. Also part of criteria is that an individual is still within some sort of process as active. So once someone is through all processes, including court processes, this sort of bridging visa is not available.

Senator BARTLETT—With requests or applications for bridging visas on medical grounds, do you provide medical details or medical care plans for detainees? The issue is that concerns have been raised about people who get released into the community on bridging visas and doctors who have agreed to medical care do not have the full details in advance of the extent of medical care they are going to have to provide.

Mr Davis—Part of having this bridging visa is having an adequate care plan available for the individual when they are released. Certainly in terms of our department assessing the adequacy of that medical care plan, we obviously look at what we know of their medical history in that context. To inform those care plan discussions, I understand we would at least give a profile or the nature of concerns that may need to be addressed; otherwise, it is impossible for those who bring those care plans together to do so. How far that goes in terms of detail, I am not sure. There are some issues around privacy and other things which we need to be careful about, but I think we try to work cooperatively with those people who are putting those care plans forward to ensure they have more than adequate information available. But exactly how much precise detail is provided on the medical side is something I am not 100 per cent clear on.

Mr Jim Williams—I think the transfer of medical records would usually be a normal matter of medical practice, so the person's consent would be required and all that kind of thing. I do not think there are any other extra requirements we impose on that.

Senator BARTLETT—Have you had any feedback or concerns expressed along those lines?

Mr Jim Williams—Not that there is inadequate medical provision made, no. That is the first I have heard of that.

Mr Davis—No, I have not heard that.

Senator BARTLETT—One issue that I think is relevant and that I get asked about from time to time, mainly in relation to children but not just them, is what precisely constitutes detention. It is relevant by way of example of the children who are the subject of the High Court decision. We know there is a definition in the act but, in terms of your operation or implementation of it, is there a requirement for the person to be in the line of sight of a delegated officer 24 hours a day or is there just a general need to know where they are?

Mr Davis—It can get quite complicated and we need to look at individual circumstances. There are really two aspects to the idea of detention. One is that, in a location of detention—a house, a school or a property—someone is 'held'—that is the term used in legislation. In that context it does not necessarily mean 24 hours a day line of sight but it does mean a capacity to monitor whether or not someone is departing from a property. In that sense, a degree of supervision or a degree of oversight to both ensure the detainee is there and know when the detainee is seeking to leave that place of detention is part of the legislation. As I say, it does not require a 24-hour line of sight but a capacity to monitor if someone is going to depart.

The other aspect of detention is that, when someone leaves the place of detention, they need to be accompanied, and in a general sense we believe line of sight is probably a minimum that we would expect in those sorts of circumstances. That is for someone going to school, to the shops or to the doctor; they need to be accompanied in those circumstances. We usually use line of sight as a guide to our thinking and consideration of that matter.

We certainly have tried to work and continue to work with organisations who have had people in alternative detention arrangements by being, within those broad constraints, as flexible as we can to accommodate things like designating coaches of soccer teams or other things like that, so that whilst they are at soccer training or whatever else there is a designated person in that location, even though someone may need to take them there and bring them home. So we have tried to work with groups who have had detainees in this situation and to be flexible, but at the same time what I have described broadly is what we believe the legislation requires of us.

Senator BARTLETT—Do you have a specific set of requirements for each situation?

Mr Davis—Those are the sorts of issues we work through with groups who hold people in alternative detention. We try to give the principles under which we operate, which I have just broadly described, and essentially be hands-off in exactly how that is delivered, but it usually requires a range of volunteers and others to assist. They are all nominated to us and we will designate them. We require things like police clearances to assure ourselves that the right

people are doing this. We work with groups, and if issues arise we try to work with them to work out the best way to fulfil the legal requirements as well as allowing it to be as hands-off as possible.

Senator BARTLETT—In situations like hospitals does the same circumstance arise? I know when I have visited a detainee in hospital they have had guards there saying that I have to be in line of sight all the time and that they cannot leave us alone for a second.

Mr Davis—In hospitals generally, in most cases our service provider would perform the role of supervision. For example, they may be at the front of the room or at the exit or entrance point of an area, a ward or a room, rather than in the room with a detainee who is getting treatment. But usually it is a matter of placing or situating an officer so that they know when a detainee is moving and then can accompany them as needed, rather than necessarily 24-hour line of sight. We are very conscious in the medical situations of working with the hospital administration and the doctors and nurses in order to be as unobtrusive as we can without compromising the legal requirement to have that degree of supervision. That is something we take very seriously. We are very sensitive to those situations and we try to be as cooperative as we can with medical authorities to do that without interfering.

Senator BARTLETT—When you have people in detention who have had their refugee claim accepted but are still waiting for security clearance, is there any change in the way they are treated? Are they given more freedom or scope or anything like that, or is that not relevant from the detention point of view?

Ms Godwin—When someone goes to the Refugee Review Tribunal the tribunal makes a determination in relation to article 1A of the convention, but that is not the totality of the determination process. So when someone comes back, if you like, when their case is remitted, there are still a variety of circumstances that we have got to check to establish whether or not all of the requirements of the convention are met and therefore a visa can be granted. So they are still someone who is in a sense going through an assessment process, and for that purpose they remain in detention in the normal way. It does not happen very often but it can happen occasionally that circumstances arise, even at that late stage, which would result in the person not being granted a visa.

Senator BARTLETT—I understand there is at least one at the moment, I think in Baxter, in that situation who has been waiting at the security clearance stage for six or nine months.

Ms Godwin—Sometimes the character issues can be very complex, yes; and because they are character issues they are not things that we can dismiss lightly.

Senator BARTLETT—Have questions about the Baktiari children been asked before?

Ms Godwin—Not specifically, but we would obviously want to be careful about any comments we make because they are subject to a confidentiality order by the courts.

Senator BARTLETT—There is one thing I want to ask about that. I went to great pains to specifically not mention their name repeatedly when the High Court decision came down and it seemed to be mentioned by everyone else under the sun. What is the situation with that?

Ms Godwin—I think not by us.

Senator BARTLETT—Except perhaps you and me. What is the situation with naming them at the moment, in a legal sense?

Ms Godwin—My understanding—and Mr Evers may be able to comment as he is in charge of our litigation area—is that they are subject to a confidentiality order.

Senator BARTLETT—It does not seem to be being enforced particularly rigidly.

Ms Godwin—It is as a result of provisions of the Family Law Act, where actions under the Family Law Act are not meant to be identified, so we are seeking assiduously to abide by that. I cannot speak for anybody else.

Senator BARTLETT—Wasn't it the High Court decision that the Family Court has no jurisdiction?

Ms Godwin—Nonetheless they were a party to proceedings under the Family Law Act, so we have taken the view that that includes ongoing privacy concerns—confidentiality arrangements. Of course, there is ongoing litigation, which means that we also need to be careful.

Senator BARTLETT—Is there litigation regarding—

Ms Godwin—There is continuing litigation, yes.

Senator BARTLETT—For the whole family?

Ms Godwin—There is a variety of multiple pieces of litigation.

Senator BARTLETT—Can I ask, hypothetically—

CHAIR—If there is any such thing in estimates the department will be happy—on the public record, anyway.

Senator BARTLETT—When there are different members of a family and some have been all the way through the process and been determined to have no lawful entitlement to stay and others have not completed that process, is there any obligation for none of the family to be removed until all of them have completed their claims?

Ms Godwin—No, there is no obligation on us not to remove them but, in those circumstances, as we do in a whole variety of other circumstances, the question of whether it is reasonably practicable arises and we would take a variety of circumstances into consideration in forming a view as to whether it was reasonably practicable. As you would know, the Migration Act requires us to remove someone as soon as is reasonably practicable. While there is a presumption towards removal, there is also this question of what is reasonably practicable.

Senator BARTLETT—Touching on some of the questions I asked earlier about the uncertainty about nationality, or dispute or whatever you might want to say, is it possible for people that you may perceive or believe to be of Pakistani background to still be offered the opportunity or availability of the package to go back to Afghanistan and then move on from there?

Mr Jim Williams—Yes, we took the view when that package was on offer to err on the side of caution. If people had asserted that they were an Afghan national they would be

offered the opportunity to apply for a passport et cetera, and the passport process that we discussed would clarify that issue—if they were able to obtain a passport.

Senator BARTLETT—I am sorry to revisit this but I guess it is still in this section. You previously mentioned the one-way travel document—I cannot remember the technical term—back to Afghanistan and said it had not been utilised as yet. Is that something you are anticipating being able to utilise soon?

Mr Jim Williams—It is up to the Afghan authorities. But if they believe that it is appropriate for a one-way travel document perhaps under the circumstances I described earlier we would have no problem with that. It is common international practice for emergency travel documents, one-page travel documents or one-way travel documents to be used in many situations often involving removals and deportations.

Senator BARTLETT—Were there questions earlier on about the HREOC report and children in detention?

Mr Jim Williams—Yes, Senator.

Senator BARTLETT—I anticipate they were probably very good and probably covered what I was going to cover.

CHAIR—If, when you have examined the *Hansard*, they don't—

Senator LUDWIG—We should try. We had a particular focus but you might have a broader focus.

Senator BARTLETT—I have one general question I wanted to ask the minister. I know the government or the minister put out a joint media release with the Attorney-General following on from the HREOC report. Is there any intention to implement any of the recommendations in the HREOC report? Senator Ellison earlier in the week said that there was not going to be any further government response.

Senator Vanstone—I am having a look to see if there is anything further that needs to be done. I think some administrative matters were referred to in the process. The department is always trying to do a better job in any area that it can and some of those matters will already have been attended to. You can take this assurance: where there are things that we think we can do better, we will. But as to specific recommendations, I am still thinking about that.

Senator BARTLETT—What is the current situation—and, again, this may have been covered—between the department and the South Australian department called FAYS. There is an MOU relating to children there—is that right?

Ms Godwin—The Department for Family and Youth Services.

Senator BARTLETT—Is that MOU public?

Mr Davis—My understanding is that that MOU—and this is a recollection—was tabled in the South Australian parliament some time ago. We can check that and if indeed it is public—and I understand it is—we can provide it. We can check that.

Ms Godwin—I think it was provided to this committee.

Senator BARTLETT—I remember asking about it a long time ago.

Ms Godwin—We will check that.

Senator BARTLETT—A year or more ago. Was there any involvement of the state department—and I know there were questions asked about it a couple of estimates ago—with the seven-year-old Iranian girl who got deported to be with her mother in Iran?

Mr Davis—FAYS was certainly involved in the welfare arrangements and things related to the child while she was in Australia in detention. They were aware of processes we went through during the removal.

Senator BARTLETT—So they were notified about what you were doing?

Mr Davis—They were notified ahead of the removal.

Senator BARTLETT—And they did not express any objection to that?

Mr Jim Williams—No.

Senator BARTLETT—I wanted to ask a little bit about the border control area, which I know overlaps with Defence and two or three other agencies as well. Did any of you get to see the CMI play in Sydney—the certain maritime incident Senate inquiry? No? It was immortalised in drama. I was represented in it so I thought everyone would want to go and see what I look like! Using the example of the Melville Island incident, which I think was asked about earlier on, is there a standard operational plan in place that pretty much kicks in whenever there is a boat arrival. You set up your joint task force and Operation Relex is triggered in terms of operational command. Does that happen automatically or do you have to make a determination each time or some sort of formal decision?

Mr Killesteyn—There is an ongoing People Smuggling Task Force which meets at least once a week and has done for the last several years. The role of the task force is to review intelligence that is received about people-smuggling activities and to advise government on approaches to securing Australia's northern borders in particular. When a vessel is intercepted, and that vessel is determined to be carrying people who are seeking to enter Australia illegally, then essentially the People Smuggling Task Force continues to take overall management of the incident. Operation Relex that you referred to is also in place on an ongoing basis. In terms of management of the incident in situ—that is, wherever the vessel is intercepted—Northern Command, under the Department of Defence, essentially manages the operations on the ground, but under the broad direction of the People Smuggling Task Force in relation to how the particular individuals should be managed.

Senator BARTLETT—I know from when you gave evidence at the end of last year that in the Melville Island situation there was an air exclusion zone declared that you stated was requested by Customs. Will it automatically happen each time that an air exclusion zone will be declared as a matter of course?

Mr Killesteyn—It will depend on the circumstances. In that particular circumstance there was information that we had at the time that there may have been other vessels in the vicinity. As a consequence of that we were not only seeking to manage the particular arrival on Melville Island but there were also other aircraft in the vicinity looking for reported other vessels, which apparently turned out to be untrue.

Senator BARTLETT—Other potential Indonesian vessels?

Mr Killesteyn—Yes, other potential illegal arrivals. The need was to try to secure the air zones around Melville to allow those aircraft to continue to conduct searches without having to worry about other commercial aircraft flying to Melville Island.

Senator BARTLETT—Why would that have come from Customs?

Mr Killesteyn—It is Coastwatch—not so much Customs but Coastwatch—who essentially provide the surveillance aircraft in this case.

Senator BARTLETT—The use of which aircraft and those sorts of things does not come under you.

Mr Killesteyn—No, we do not seek to impose a view from the People Smuggling Task Force. We are clearly remote and we clearly act on the advice of the operational agencies, Defence and Customs and Coastwatch, as to how the particular logistical issues ought to be managed on site.

Senator BARTLETT—Have people asked questions about Manus Island?

Mr Killesteyn—That could be output 1.5.

Senator BARTLETT—It has it on both on this list.

CHAIR—I think it depends on the aspect of the question. Do you want to ask your question?

Senator BARTLETT—I was going to ask what is happening with Manus Island. Is it being kept operational and how long for? What is the scenario with the sole resident or detainee, even though I understand he is not under Australian jurisdiction?

Mr Killesteyn—Manus Island continues to be a facility that can be used in the event of further arrivals. It is still under the operational management of IOM and they continue to look after the resident there.

Mr McMahon—The MOU runs until October this year. There have been no discussions around the MOU.

Senator BARTLETT—MOUs with Nauru et cetera: do they come under this output or 1.5?

Mr McMahon—That comes under 1.5.

Senator BARTLETT—This is probably a litigation services question. There are always a number of court actions in process, by definition. Can you tell me how many High Court decisions are pending—where the hearings have been completed and you are awaiting the decisions?

Mr Storer—Do you mean current litigation before the High Court, Senator?

Senator BARTLETT—Yes. We did get some statistics from A-G's the other day.

Mr Eyers—Currently, there are a total of 331 migration cases before the High Court.

Senator BARTLETT—Are they all separate?

Mr Eyers—Yes. With respect to the number of cases which have actually been heard and reserved, I could not give you an exact figure. I would have to take it on notice. There are

probably between eight and 10 High Court matters that have been heard and currently we are awaiting judgment by the High Court.

Senator BARTLETT—I do not know whether this is a technically correct term, but would they all be judgments that would have flow-on effects—test cases?

Mr Eyers—Any decision of the High Court has the potential to affect a number of other cases. There are a number of cases that have been heard and there are other cases where the outcome is being awaited. One in particular is the Singh case regarding citizenship which was heard in February this year. There are a number of cases before the Federal Court which have been reserved specifically in order to await the outcome of this High Court case as to the interpretation of those provisions.

Senator BARTLETT—I am trying to get a sense of whether, of those 331 that you mentioned, a number might fall away depending on how these eight to 10 pan out.

Mr Eyers—Not significant numbers in the High Court. It is not usual for serial matters to be filed in the High Court awaiting a High Court judgment. I would expect that the bulk of the matters that are awaiting or would be determinative of a judgment of the High Court which is outstanding would be before a lower court.

Senator BARTLETT—Has the litigation services section been involved in the recent—it may even be ongoing—legal challenge in Nauru?

Mr Eyers—The case before the Nauru Supreme Court?

Senator BARTLETT—Yes.

Mr Eyers—We were not a party to that litigation.

Senator BARTLETT—Amongst the reports of Mr Burnside not being able to enter it was suggested that an officer from the Australian Government Solicitor was going over to represent the Australian government's perspective. That may have been through DFAT; I do not know. I was wondering whether we had a role.

Mr Eyers—There was a lawyer from the Australian Government Solicitor who did attend, but that was not to partake directly in the court proceedings or to represent the government in the court proceedings, because we were not a party to the proceedings.

Senator BARTLETT—Was it just an interested observer?

Mr Eyers—An interested observer. Also, Mr Burnside said the case would be particularly relevant to proceedings that he was running before the Supreme Court in Melbourne. In those proceedings in the Supreme Court in Melbourne the Commonwealth is the respondent, and it was certainly thought that it was worth while to have somebody there to view the proceedings first hand.

Senator BARTLETT—I am not 100 per cent sure how it works, but I understand they are available to be used by any department. Did the cost of that come out of DIMIA or DFAT?

Mr Eyers—It would be coming out of DIMIA.

Senator BARTLETT—Who makes the decision that it is necessary or desirable to have somebody go to follow those proceedings?

Mr Eyers—It was a decision made within the department.

Senator BARTLETT—Which bit of the department?

Mr Eyers—Across a number of areas of the department which had an interest in those proceedings.

Senator BARTLETT—That person was obviously able to enter. They then followed the proceedings. What is the status of those proceedings?

Mr Eyers—They have been heard and reserved; judgment is still outstanding.

Senator BARTLETT—They were able to stay. There was a range of reports. You might actually be able to enlighten me. There was some suggestion initially that obviously Mr Burnside could not go but someone else did.

Mr Eyers—My recollection is that in fact the person from the Australian Government Solicitor returned before the hearing of the matter, due to the review that was undertaken by the Nauru government as to lawyers from other countries.

Senator BARTLETT—So even though they were not party to the proceedings or participating in the proceedings it was felt best that they not be there.

Mr Eyers—Yes.

Senator BARTLETT—So they actually returned. Presumably they were not deported.

Mr Eyers—They returned voluntarily, yes.

Senator BARTLETT—And that was before the case.

Mr Eyers—That is my recollection, yes. It was before the actual hearing.

Senator BARTLETT—So do you get some report on how that has gone or what arguments to put, or are you just waiting for the decision?

Mr Eyers—We are just waiting on the judgment of the chief justice.

Senator BARTLETT—Is that appealable? I have heard different things.

Mr Eyers—There is the prospect of appeal to the High Court of Australia from a decision of the Supreme Court of Nauru. There are certain restrictions around that, but I understand that is a possible course of appeal.

Senator BARTLETT—I know you have got officers on Nauru as a matter of course. Would they have attended the public hearings, provided reports or anything like that?

Mr Eyers—My recollection is that, yes, there were reports provided of the hearing, from other DIMIA officers that are on Nauru.

Mr Storer—Not detailed reports or reports about the legal aspects of the arguments.

Senator BARTLETT—Just letting you know what is going on, alongside the weather and those sorts of things. The solicitors that originally went over there to argue the case from the Nauru government: that would not have had anything to do with you guys, I suppose, would it?

Mr Eyers—We did not instruct them.

Senator BARTLETT—You would not have had any role in that?

Mr Eyers—No role in instructing those solicitors, no. We are certainly aware of who they were.

Senator BARTLETT—They were not AGS people, though, were they?

Mr Eyers—No.

Senator BARTLETT—Do you know how many people are currently in Australia on what I think are called transit visas—the ones where they come here for medical treatment and bounce out again?

Mr Okely—At the moment there are no asylum seekers from Nauru in Australia on transitory visas.

Senator BARTLETT—There are still people on Christmas Island—the Vietnamese cohort. Have you got the number of those?

Ms Godwin—I think it is 42.

Mr Killesteyn—This is after a number have been granted visas.

Senator BARTLETT—And those 42 have all been through the RRT and dipped out—or are some of them still before the tribunal?

Mr Killesteyn—Their matters are still before the RRT.

Mr Davis—I have a figure as at 19 May of 43 on Christmas Island. We had a recent birth in Perth. The family came to Australia for the birth and went back to Christmas Island.

Ms Godwin—They are all through the RRT.

Senator BARTLETT—That is slightly inconsistent, so I might double-check that.

Ms Godwin—I am just correcting that. They have all had a primary and an RRT decision. In a number of instances visas have been granted, and I think the rest of them are pursuing litigation.

Senator BARTLETT—The newborn would presumably go with the parents' claim.

Mr Davis—I am not aware that any claim around the newborn child has been lodged. The parents are in the litigation process, but as to the status of the child I am not aware that any claims have been put forward at the moment.

Senator BARTLETT—The child would automatically attach to the claim of the parents, I presume.

Ms Godwin—There is an application in respect of the child who was born in Australia. That child is still going through the process.

Senator BARTLETT—This is something of a tangent, but one of you would probably be aware of the bill—I think it is Migration Legislation Amendment Bill (No. 1) 2002—which is currently waiting for the House of Representatives to decide whether or not they will be obstructive. There is a component of that clarifying the matter of somebody entering Australia to be born. I do not know whether any of you are across that particular component.

Mr Storer—To some extent.

Senator BARTLETT—It is possibly a moot point, but the fact that there is legislation with an amendment in it to clarify that matter suggests that it is desirable to do so, or you would not have put it forward.

Mr Storer—Correct.

Senator BARTLETT—Is there any risk to do with the status of children born in this sort of circumstance if that legislation does not pass? I would not want to suggest your turning a blind eye to the deficiencies in the existing law.

Mr Storer—I do not believe so, but I will go and clarify it and get back to you.

Senator BARTLETT—Is the child you mentioned who was born in Perth the only one born in Australia from that group of people?

Mr Davis—Yes, that is my understanding.

Senator BARTLETT—You mentioned the family going back to Christmas Island. My understanding was that the woman was required to go to Perth on her own and that her husband was not allowed to go. Is that correct?

Mr Davis—My understanding was that the husband accompanied her. I have just been advised that she may well have come on her own pre-birth, because there is a requirement that babies not be born on Christmas Island and for women to come off the island ahead of the birth. But I am advised that he was with her when the child was born, so he may have come off the island after she had come off the island.

Senator BARTLETT—Is that some general thing about Christmas Island? It has nothing to do with the Migration Act?

Mr Davis—It has nothing to do with the Migration Act. It is associated with the level of medical care and the potential for complications. I believe there is a standing arrangement that all women who are having children come off the island ahead of time to avoid emergency situations arising on the island.

Senator BARTLETT—I have one more issue which is to do with medical care in detention. An allegation has been raised with me about somebody who said they were in strong need of dental treatment but were told they could not get treatment unless they could pay for it, which they eventually did. Is that a likely scenario?

Mr Davis—It depends on the nature of the treatment. It is possible, for cosmetic dental treatment. Dental treatment is something that would normally be provided, but it is provided consistent with community standards in terms of basic needs. Certainly there are waiting periods associated with dental treatment, which may mean that if someone was willing to pay they may have been given priority or moved forward. Unless I had the details of the situation, I could not confirm that. But it is possible that it was a voluntary situation or that, if they wished to increase the priority, they were willing to pay for it themselves. I can think of circumstances in which that may have occurred. If we got some details and if you wished, we could have a look at that.

Senator BARTLETT—I might not do it that way. I am pretty sure that is everything.

[4.59 p.m.]

CHAIR—We will move to output 1.4, Safe haven.

Senator BARTLETT—How many people come under this particular categorisation?

Mr Hughes—The answer is the same as in the February additional estimates for the subclass 449 humanitarian stay temporary visa—that is, 14 Ambonese, three Iraqis, one Iranian and four people from Kosovo.

Senator BARTLETT—Are you able to give me the end dates on those? You can take that on notice if it is too tedious to read out.

Mr Hughes—Only for the Ambonese at this stage. The end date is September 2005.

Senator BARTLETT—How many times is that now that they have had a renewal?

Mr Hughes—I think it is three. We can confirm that for you.

Senator BARTLETT—If you could please check that for me, because I think that renewal has happened since last estimates happened in April.

Mr Hughes—That is right.

Senator BARTLETT—Have there been any representations made to transfer that group of people onto something somewhat more permanent?

Mr Hughes—I think representations are made from time to time, but I cannot recall any particular one since you last asked that question.

Senator BARTLETT—There is the power under the act to enable those people to apply if the bar is lifted. That is the only way they can obtain another visa, isn't it?

Mr Hughes—That is correct.

Senator BARTLETT—That bar has not been lifted, I presume?

Mr Hughes—It has not been lifted.

Senator BARTLETT—How many were in the Kosovo group?

Mr Hughes—Four.

Senator BARTLETT—Do those visas relate to a health situation or anything like that or do they relate to other matters?

Ms Bicket—The four visas are under the 449 category and relate to one particular family. It was an extension of stay to allow them to make arrangements for departure. They had previously been, I believe, on a 786 humanitarian concern visa.

Senator BARTLETT—So from your point of view the expectation is that they will be departing.

Ms Bicket—That is right. The expectation with all of these temporary visas, subject obviously to any change in circumstances, is that those people will be departing at the cessation of their visas.

Senator BARTLETT—Or be renewed again, if they are the Ambonese.

Ms Bicket—Indeed, depending on their circumstances.

Senator BARTLETT—Would it be technically possible to enable these visas to be used for, say, the Iraqis on Nauru because it is deemed that it is not safe for them to return to Iraq?

Mr Hughes—Technically, yes, but subject to the profile of the people meeting the criteria.

[5.03 p.m.]

CHAIR—We now move to output 1.5, Offshore asylum seeker management.

Senator BARTLETT—I think some of this might have been covered in output 1.2 or 1.3. There are still some decisions that have to be brought down for some of the Afghans that have been reassessed. They have not been notified yet, have they?

Mr Hughes—Of the Australian case load of Afghans on Nauru there are still decisions pending in relation to 18 persons.

Senator BARTLETT—They are all Afghans, I presume?

Mr Hughes—Yes, that is in relation to Afghans. Perhaps I can give you the latest count. Of the 175 Australian cases that we were re-examining we have determined 138 people to be refugees, 19 people not to be refugees and 18 people where there are decisions still pending.

Senator BARTLETT—In the case of those 18 people do you need to get more information or check information?

Mr Hughes—There are a variety of things that still need to be checked in those cases. The last few always tend to have extra complications but I hope we can have those finalised within the next two weeks.

Senator BARTLETT—The expectation is that the majority of those 138 people would be coming to Australia?

Mr Hughes—That is definitely what has been announced. As always, there is the issue of whether people have connections in other countries and whether there would be a priority for people to go to other countries. The expectation is that most of them would be coming to Australia.

Senator BARTLETT—Would they expect to get the five-year visa?

Mr Hughes—It depends on the circumstances but that would be my expectation.

Senator BARTLETT—The UNHCR case load of 22 people, who I think were all found to be refugees eventually, are not necessarily coming to Australia?

Mr Hughes—The UNHCR has approached some other countries about possible resettlement, so at this stage there would be no expectation of their coming to Australia.

Senator BARTLETT—Unless they are not able to find countries?

Mr Hughes—It depends on the outcome of UNHCR's inquiries.

Senator BARTLETT—So at this stage 19 have received a negative response and there are 18 pending. Are any of those 37 minors?

Mr Illingworth—Of the 19 refused Afghans, there are two minors: one male and one female. Of the 18 individuals whose cases are still under re-examination there are four minors: two males and two females.

Senator BARTLETT—What is the total population—leaving out the Afghan cohort?

Mr Hughes—The total population on Nauru is 260, of whom 214 are in the Australian case load.

Senator BARTLETT—Are there 46 Iraqis?

Mr Hughes—Subject to correction by my colleagues at the other end of the table, I understand there are 56 Iraqis and seven others.

Mr McMahon—Going through the statistics: there are 260 people on Nauru at the moment and there are 197 Afghans, 56 Iraqis, three Bangladeshis, one Palestinian, two Iranians and one Pakistani. Of those, 160 have been found to be refugees. There are 74 children under 18 years of age, and 54 of those have been found to be refugees.

Senator BARTLETT—Of the 19 that have been knocked back, were any of those knock-backs due to the question of identity and the belief that they were actually Pakistanis?

Mr Illingworth—There is a range of considerations that lead to an individual decision. There were certainly some members of the Afghan case load about whom there were greater levels of uncertainty about where they were from than other members of the Afghan case load. But I am not sure whether there were any decisions that turned solely on a decision that a person was not who they said they were. Quite often it is a number of factors. As I mentioned in earlier evidence, there are cases where decision makers might essentially conclude: 'I have serious reservations about where you are from. But, even if I accept that you are from where you say, I am comfortable in concluding that you are not a refugee.' I am aware that there were some decisions of that nature in that case load.

Senator BARTLETT—Do these 19 have scope for appeal, review or reconsideration of some sort?

Mr Illingworth—No, this is the third examination of their cases but, if there were some further significant shift in the information available to the department that might lead us to conclude that there was a need to look again at those assessments, then that information would be considered.

Senator BARTLETT—I was just wondering whether it was deemed to be a fresh assessment and therefore a clean slate, so to speak.

Mr Illingworth—No, but there is no bar on us considering again.

Senator BARTLETT—I guess that brings me to the question of the Iraqis whom there is obviously some public comment about. The decision to reassess or reconsider the situation faced by the Afghans was basically a policy determination by the department or the government, wasn't it? There was no legal imperative that you do that?

Mr Hughes—There was no legal imperative but there was new information from UNHCR at the time that said that in certain areas of Afghanistan the situation had deteriorated in terms of refugee protection type issues, so they had decided that they wanted to look again at their case load in Nauru because people came from those regions. Similarly, many in the Australian case load came from those regions. That was the trigger, which was wholesale new

information relating to specific regions that many of the people came from. There really is no such trigger at this stage in relation to the Iraqis.

Senator BARTLETT—So you were basically following UNHCR's lead in a sense and, unless the same thing happened, you would not do the same thing with the Iraqis?

Mr Hughes—The situation with the Afghanis was that it was the trigger of new country information. Since UNHCR were the original source of that new country information—they were the first to have it—they passed it on to us. In relation to the Iraqis, for a wholesale re-examination of their cases there would have to be a trigger of that nature. But, at any time, as Mr Illingworth said, if something comes up in relation to particular cases—the individual circumstances of people, the regions they come from or relating to their specific minority circumstances—then that could be a trigger for looking at individual cases.

Senator BARTLETT—Leaving the Iraqis to one side, the Bangladeshis, Pakistanis, Iranians and Palestinians have all been through the process quite some time ago. What is the delay in returning them? Is it just because they are refusing to go? Returning people to Pakistan is not normally a problem, is it?

Mr Okely—For the small number we are talking about, IOM works on cases as they arise. They have not had a great deal of success so far in getting agreement from the governments concerned to accept these people back. It may be a question of ratcheting up the pressure on the countries concerned to get enforced removals happening. IOM cannot be involved in enforced removals, only voluntary removals, so it would require some cooperation between the government of Nauru and the government of Australia to initiate action to get those people back involuntarily.

Senator BARTLETT—Wouldn't you have been attempting to undertake that cooperation? It has been a couple of years.

Mr Okely—It has not been undertaken so far. We have not undertaken any involuntary removals from Nauru at all in cooperation with Nauru. That is something that would need to be looked at in the near future, I would think. We have been focusing principally on the larger populations up to this point.

Senator BARTLETT—Are there any management concerns? It is fairly obvious from a human nature point of view and, I guess, from my own time when I was there speaking with the Iraqi group that, once a large number of people leave the camp, the Afghanis and this much smaller group are left with no likely option to go anywhere. That must present some management problems, surely, in terms of dissatisfaction with their situation.

Mr McMahon—That could be an issue but, in effect, we look at the risk at any one time. It is up to the Nauruan police, the IOM and APS to identify any risks and, if they emerge, we deal with them. If risks emerge, we will look at the circumstances at that time. I do not think there can be an answer given to the general nature of your question.

Senator BARTLETT—What options are there for the Iraqis? If they said tomorrow, 'We want to go back,' is that doable?

Mr Okely—If the Iraqis said tomorrow that they wanted to go back, IOM would seek to have them returned to Iraq. That would mean negotiating with the government of Jordan to

get them through Jordan into Iraq. I cannot comment on how successful they would be on that.

Senator BARTLETT—So there is not even any really clear idea of what the prospects would be for enabling them to return or how long it would take?

Mr McMahon—We have previously returned Iraqis from Nauru. The people who are there at the moment have not indicated that they would want to return voluntarily. I think the problem is that you cannot go in general and just get an in principle agreement to move people. If another group of Iraqis indicate they want to return home, IOM would start pressing some buttons in terms of trying to get transit. Some people do have old Iraqi passports which are acceptable for travel, and the interim authority is also issuing a travel document. We would have to get the documents and then IOM would have to try to negotiate transit.

Senator BARTLETT—Australia accepts that we have an obligation to ensure that these people are not returned to a situation of serious danger. That is correct, isn't it?

Mr Farmer—It depends what lies behind your question, Senator.

Senator BARTLETT—Without getting into degrees of danger, but broadly speaking. Even though they have not been found to be refugees, we have an obligation to ensure that they are returned safely.

Mr Farmer—The refugee determination process is really a way of saying that we do not accept that they face the risk of persecution for any claimed reason were they to be returned. In effect, there is no barrier to our returning people for refugee convention purposes. I just thought I would put aside that question.

Your broader question is one that, of course, applies in a number of cases. People might say that you are returning someone to a place where their economic wellbeing or personal security cannot be guaranteed or a variety of other circumstances would not be as good as they would be in Nauru, Australia or wherever. In relation to that, from time to time organisations like the UNHCR will advise governments on the question of returns whether voluntary or involuntary. They might well from time to time say things to us about the return of people to Iraq.

Senator BARTLETT—What are we actually saying to the Iraq group these days? Are we not saying anything and just leaving it up to IOM? Are we telling them what their options are, what their prospects are, what the potential is and trying to encourage them to voluntarily return? Or have we decided that we have tried that enough and we will let them come forward now because they know what the scene is?

Mr Okely—The line, in discussions with the Iraqis, has been consistently that they should be patient. They should await the opportunity to return voluntarily to Iraq, go back and participate in the rebuilding of the country. That particular line is one that obviously wears thin as time goes on. To some extent, the population there is a little restive but generally accepting of the fact that, at some stage, they will need to return to Iraq.

Senator BARTLETT—Did you say 'await the opportunity' to be able to return?

Mr Okely—Yes, to effectively choose their time to return to wherever they came from in Iraq.

Mr McMahon—But if anybody decided to leave then that would be a decision for them.

Senator BARTLETT—They cannot decide to leave, go and buy an Air Nauru ticket and fly to Fiji, can they?

Mr McMahon—No, it would be facilitated by IOM, but I am saying that they are not being held there. If they wanted to return to Iraq ahead of time then they could.

Mr Okely—IOM makes that point too, to individual Iraqis and to the Iraqis as a group consistently. They will assist them to return to Iraq if they decide they wish to return. In the meantime, they have accommodation in Nauru and they are safe.

Senator BARTLETT—I have asked about the MOU with Nauru for a few estimates in a row. I think in February the next stage had not been finalised. I know there have been some issues there with governance. What is the current situation?

Mr McMahon—An MOU was signed which runs until June 2005.

Senator BARTLETT—I know it is probably not specifically your role, but what is the current situation with the Nauru government? Is there still a functioning government that we can negotiate and talk with?

Mr Okely—It would probably be more appropriate to ask that question of our colleagues from DFAT. The government is still in power. President Harris is still the President. Parliament has met, a Speaker has been elected and there is expected to be a session of the parliament sometime next week, I think. But I think you were alluding to the second part of the MOU being the conclusion of a treaty between Australia and Nauru on the secondment or placement of a senior finance person and someone to assist in policing matters in Nauru. That is presently with the Nauru government. As I said, it would probably be more appropriate to ask our colleagues from DFAT what the prospects are of getting that finalised in the near future. I will just clarify that the agreement has been signed; it has just not been ratified by the parliament.

Senator BARTLETT—Which parliament?

Mr Okely—The Nauru parliament.

Senator KIRK—At the last estimates we were told that the so-called Pacific solution has cost the government \$170 million to date. Are you able to provide us with an update on the cost today?

Mr McMahon—That was from its inception to December. There is really no update on that unless we were going to take it forward to 30 June or whatever. I am just trying to remember the figures at the time. From memory, that would add around \$30 million.

Senator KIRK—So there would be an additional \$30 million from November through to the end of June—is that what you are saying?

Mr McMahon—No. From December to the end of June.

Senator KIRK—Of this year. You also indicated that the government had a forward estimate of \$300 million in the budget—is that correct?

Mr McMahan—It may have had an estimate over the four-year period but, for 2004-05, the assumed level for budget purposes is \$85.3 million. I will just register the fact that that is based on an assumed 750 arrivals. Clearly, if we get minimal boat arrivals, that number will fall.

Senator KIRK—What has been the recent number of boat arrivals? Is it quite minimal?

Mr McMahan—For 2002-03 we had no boat arrivals. We have had 53 brought onshore this year. How many we will get in the future, no-one knows.

Senator KIRK—At the last estimates you advised that IOM received \$120 million of the \$170 million spent on the Pacific solution. Can you update that figure? Has that changed?

Mr McMahan—We will take that on notice. I will just register the fact that most of the money that has been spent is actually recouping the cost of IOM—not all of it. The bulk of the additional amount between the end of December and June will go to IOM. It essentially then pays its subcontractors et cetera.

Senator KIRK—Are there separate contracts for IOM for Manus Island and Nauru?

Mr McMahan—There was an arrangement. We have tabled the letters. There was an exchange of letters covering the operation of the offshore centres.

Senator KIRK—Have the letters been made available to the committee?

Mr McMahan—Yes, they have.

Senator KIRK—Do you have a cost per detainee per day for the detainees on Nauru?

Mr McMahan—We simply have not bothered making that calculation and we do not intend to because the nature of the arrangement is that we have a facility which is open. The main costs are keeping it in operational readiness for people to arrive. It is not like some of the onshore arrangements which actually do have per capita costs. Clearly, if you have a lot of people in there the per capita cost drops. But you have to ask yourself whether or not you want a lot of people in there. So it is not a figure that we attach any importance to.

Senator KIRK—Sorry, what do you say is the difference between the onshore facilities and the offshore facilities?

Mr McMahan—Actually I am not sure under the new contract but certainly there are bandwidths in respect of pricing and obviously the more people you have in there the more economical it becomes. Offshore we are actually meeting the full infrastructural cost and we keep a reasonably substantial capacity—for example, doctors through IOM et cetera—available to be ready were there to be a need to put people on the island.

Senator KIRK—Are you able to provide us with a breakdown of the visas that have been received by persons who have been part of the Pacific solution—a breakdown of all of the persons who have been in either Nauru or Manus and the type of visa they received?

Mr McMahan—Was the question about a breakdown of visas?

Senator KIRK—Yes, the types of visas: whether they are TPVs or permanent protection visas.

Mr McMahan—As a general comment, the 804 people who have now been resettled have actually been resettled to a number of countries. Clearly, the visa arrangements in respect of other countries are not of interest to us. So far Australia has taken 380. I do not have the visa information on those.

Ms Bicket—I think we may have provided these figures at the last Senate estimates and I do not believe that there has been any change since that time. Three hundred and eighty people have been resettled here. As for the breakdown of visas, the totals from both Nauru and Manus are: subclass 447, secondary movement offshore entry temporary visas, which is a three-year visa, for 150 persons. On the 451 secondary movement relocation temporary visa, which is the five-year temporary visa, there are 221. Three people have been provided with temporary protection visas—and I believe that was after they had been brought in and converted to temporary protection visas. Five people came on 449 humanitarian stay temporary visas and were given access to the protection visa system onshore, and this led to permanent protection visas. And there has been one spouse visa.

Senator KIRK—Is it correct to say that those persons who were on the *Tampa*—if we can call them the *Tampa* case load—have now all been processed and all granted a visa of some description?

Ms Bicket—My understanding is that the *Tampa* case load was assessed by UNHCR. I do not have the final breakdown of what UNHCR has done with each of the people on the *Tampa*. In terms of resettlement to Australia, 27 people have come to Australia from the *Tampa*, all of them single Afghan males.

Senator KIRK—I am not sure whether Senator Bartlett asked about Manus Island and about the one person who remains there.

Mr McMahan—He did not ask any questions about Mr Aladdin Sisalem I do not believe.

Senator KIRK—There were reports that it was estimated to cost over \$200,000 a month to keep that sole person on Manus Island. Is that accurate?

Mr McMahan—I think we dealt with this at the last estimates. The issue really is that Mr Sisalem has nothing to do with the sorts of costs that we are incurring. We are trying to keep that centre in operational readiness; it would not matter whether he was there or not. What was inaccurate was to ascribe cost to him. What is the actual estimate now, John?

Mr Okely—It is \$250,000 a month for contingency costs.

Mr McMahan—That is, up to \$250,000.

Senator KIRK—How long is it proposed to keep Manus Island in a state of readiness, if that is what you want to describe it as?

Mr McMahan—That matter has to be put to government. It also depends on the agreement of the PNG government. At the moment we have an agreement that runs until October of this year, and there has been no indication that we would not continue with it.

Senator KIRK—So that agreement will have to be renegotiated as October approaches?

Mr McMahan—Correct.

Senator KIRK—Are the agreements of one year's duration normally?

Mr McMahon—They have been annual to date.

Senator KIRK—So between now and October we are going to be spending \$250,000 a month to keep the facility open, and that may go beyond October?

Mr McMahon—Correct.

Senator KIRK—How long has there only been the one detainee on Manus Island?

Mr McMahon—We do not call them detainees, of course. They are people accommodated in offshore centres. He is not ours.

Mr Okely—He has been there since January 2003. My recollection was that it was around June of last year that the last people departed from Manus. He has been there on his own since June last year.

Senator KIRK—He has been there on his own for a year.

Mr Okely—That is right.

Senator KIRK—It must be lonely.

Mr Okely—He is the responsibility of the PNG government, not the Australian government.

Mr McMahon—I would also note, too, that he is actually not restricted to the centre. I think the orders of the PNG government are that he should not leave Manus. He is simply getting accommodation at the centre.

Senator KIRK—So he is free to move around the island.

Mr McMahon—Yes, he is.

Senator KIRK—Does he? Do we know that?

Mr Okely—He chooses not to.

Mr McMahon—It is Manus province.

Senator KIRK—Are there many sights to see in Manus province? I am just wondering what he would do with his time.

Mr Farmer—Is a very beautiful island. I have been there.

Senator KIRK—Is it? So he is taking lots of photos.

Mr Farmer—There are not many cold moments.

Mr McMahon—There is also Lorengau, which is a township. Besides that there is probably not a great deal.

Senator KIRK—Minister, does it seem likely that come October the agreement with the government of Manus Island will be extended for a further year, given that there is only one asylum seeker there and he has been there by himself for almost a year?

Senator Vanstone—It is a bit hard to say. It is all very well to say, 'The boats aren't coming; you don't need those things.' One of the reasons the boats are not coming is that we have had these things available. The availability of them, therefore, is a useful contingency. Having said that, that is something we will look at as the year progresses.

Senator KIRK—It is a very expensive contingency, isn't it?

Senator Vanstone—It is much more expensive to not protect your borders. You can look at it in light of the border protection being successful. The answer to that is, then, not to dismantle the protection.

Senator KIRK—I think it is important to protect the borders but, when you are looking at \$250,000 a month with only one detainee there, it is a considerable amount of money.

Senator Vanstone—If you look at it in light of one detainee, that is right. But the officers have told you that is not the way to look at it, and I am indicating to you that it is there as a useful contingency and that the offshore processing policy has been the most successful deterrent to people smugglers, so I think you are comparing the wrong cost.

Senator KIRK—What is happening with the construction of the detention facility on Christmas Island?

Mr Davis—It is a matter for the department of finance to give any details but our understanding is that they will be approaching the market in terms of tenders in the near future for the major works tenders aspects of the process.

Senator KIRK—So it is going ahead? They are going out to tender? Is that what you are telling me?

Mr Davis—They are going out to tender.

Senator KIRK—How long has the tendering process been in place?

Mr Farmer—Which process, Senator?

Senator KIRK—I have just been told that they are going out to tender. Has that just commenced? When did the tendering process commence?

Mr Davis—My understanding is that tenders on the next phase are due in about October. Those will obviously be assessed and the process will go from there.

Senator KIRK—How far down the track have you got? If you are going out to tender, there must be—

Mr Farmer—I am sorry to interrupt, Senator. The whole process of managing the construction is being run by the Department of Finance and Administration, not by DIMIA.

Senator KIRK—I understand that, but you must have provided some plans and guidance as to the type of centre that you wish to have built there.

Mr Farmer—Yes, that has been our role.

Senator KIRK—Perhaps you can give me some details about that—the nature of the facility on Christmas Island for which you are going out to tender.

Mr Davis—All of that detail was provided to the Public Works Committee some time ago and is readily available in terms of the nature of the facility, the size, the design concepts and so forth.

Senator KIRK—Perhaps you could make that available to this committee as well.

Mr Davis—My understanding is that it is already available to you but we will arrange for the department of finance to provide that because they took the submission process through the Public Works Committee.

Senator KIRK—So you are going out to tender in October?

Mr Davis—The department of finance is planning to go out to tender; my understanding is that that is the deadline for submissions.

Senator KIRK—Do you have any idea when construction is going to commence?

Mr Davis—From recollection, broadly speaking, the aim is completion in early 2006. I understand they are the time lines that have been worked to. So construction would commence soon after the tender process was completed.

Senator KIRK—The deadline for the tender process is October this year. Once you have established who the tenderer is, why is there such a delay between that point and commencement?

Mr Farmer—Those are questions that we are not working on. It is the department of finance that is responsible for the tender and construction.

Senator KIRK—I understand that. I am trying to determine from you when it is that you propose that you will have an additional facility on board to be able to use to house asylum seekers. You must be doing some forward planning in terms of when that is likely to become an operational facility and that is what I am trying to determine here.

Mr Farmer—I think that is a reasonable point. I just do not want us to be giving you in effect second-hand information or impressions that may not be as accurate as we would want. In terms of our expectations of when it might become available, I think we can answer that.

Senator KIRK—I am trying to determine whether you are still committed to a facility on Christmas Island—whether it is actually going to happen and whether you do have it in your forward planning.

Mr Farmer—Yes, that is absolutely the case. The department of finance is tendering; there is an expectation it will be built and we have an expectation that it will become available to us.

Mr Davis—Senator, I think I answered your question inadvertently in the way I expressed myself. When I said early 2006, that was the completion of the construction period in the current time line.

Senator KIRK—Yes, I thought you meant that they would commence construction in early 2006. You are saying that they will complete in early 2006?

Mr Davis—Yes.

[5.45 p.m.]

CHAIR—We will move on 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 BARTLETT—I recall an item in the budget about extra funding for settlement services. Was that linked specifically to the expectation of the decision to expand the humanitarian program, or was it to do with expanding the services as well?

Mr Vardos—There were three funding streams for settlement services in the federal budget, one of which was the settlement services review. Would you like me to do an overview of that package before we drill down to the specific issues?

Senator BARTLETT—Yes. That might pre-empt a few of my questions.

Mr Vardos—The total amount provided for settlement services in all its forms is \$267.6 million over four years.

Senator BARTLETT—Over how many years?

Mr Vardos—Over four years, starting in the next financial year. All of these figures are four-year figures starting in the next financial year. Of that total of \$267.6 million, \$100.9 million flows from the outcomes of the settlement services review; \$12.4 million is for settlement initiatives related to the regional settlement initiative out of the migration program; and \$154.3 million is as a consequence of the increase in scope of the refugee and humanitarian program. Those three components have funds flowing both to DIMIA and to a range of other government departments. The settlement services review is broken up into \$83.6 million for DIMIA and \$17.3 million for other agencies. For the regional initiative, all \$12.4 million is coming to DIMIA. For the settlement services flowing from the humanitarian program, \$71.0 million goes to DIMIA and \$83.3 million to other agencies. On top of that package there was also an amount of \$11.6 million over four years for the Department of Health and Ageing to provide culturally appropriate care for the ethnic aged. That used to be funded from DIMIA's community settlement services scheme, CSSS but is now handed over to the Department of Finance and Administration. That is the package in its totality.

Ms Godwin—It is the program that has been handed over, not the funding. That is new money.

Mr Vardos—All of the amounts that I have quoted are new money—additional funds, not repackaged existing commitments. That is the totality. We can drill down each of those components as you wish.

Senator BARTLETT—So the \$267.6 million is all new?

Mr Vardos—Yes, it is new—additional.

Senator BARTLETT—What is the total amount, counting existing funding?

Ms Bryant—As an approximate estimate, for settlement programs we spend around \$160 million a year. So over four years the funding base would be approximately \$640 million. This \$267 million takes the total over four years to something over \$800 million.

Mr Vardos—And those figures include the AMEP.

Ms Bryant—They include the AMEP at about \$100 million, the integrated humanitarian settlement strategy, the MRC and CSSS appropriation, and TIS fee-free services.

Mr Vardos—So the short answer to your opening question is: yes, there were funds in that package that flowed directly from the increase in the refuge and humanitarian program for consequential delivery of settlement services for that cohort.

Senator BARTLETT—Plus some other additions.

Mr Vardos—Plus a lot of other things.

Ms Godwin—Increases to services and enhancements to a range of existing services.

Senator BARTLETT—This might be a broad question but I could not find anywhere that it fitted. Our settlement services for offshore people brought in through the offshore humanitarian program have a pretty good reputation, or so I keep hearing. Do we do much in terms of interacting with other countries such as New Zealand or Canada to show them how we do it as well as to learn from others?

Mr Vardos—Indeed we do, Senator. I might ask Ms Godwin to respond to that. She was in Canada recently and participated in a roundtable with our Canadian colleagues where we compared notes on a range of issues, including settlement services for humanitarian entrants.

Ms Godwin—Not just because I have been there, but, yes, we do regularly exchange views with the countries that you have mentioned. While we do have settlement services that are regarded probably as world's best practice, that does not mean that we do not have something to learn from other countries. There was some discussion earlier on about the pre-embarkation program which is now being run for us by IOM out of camps in Africa. That was an initiative, which Minister Hardgrave saw last year when he was overseas, being run I think on behalf of the Canadians by IOM—and the Americans. He regarded that as something that could be usefully introduced into our own program. That is one example of how we have learned from others. Equally, others look to us because we do have a pretty comprehensive range of services and a well-integrated package of services, particularly for arriving refugees.

Mr Vardos—In fact, the integrated humanitarian settlement strategy, IHSS, is fairly unique as an integrated total package dedicated to refugees on arrival for their first six months. Other countries such as Canada and UK have bits and pieces of a similar nature but none of them actually have an integrated package in the same way that we do.

Senator BARTLETT—Is any component of this available to people on temporary protection visas?

Ms Bryant—The integrated humanitarian settlement strategy, consists of initial information and orientation, accommodation support, household formation, early health assessment and intervention, and proposer support. They are the main, direct service delivery to client, elements of the program. Temporary protection visa holders are eligible for early health assessment and intervention, but not the other services.

Senator BARTLETT—Is there any consideration being given to expanding the availability of any of those services for people coming in from Nauru or whatever.

Ms Bryant—Not at the moment.

Senator BARTLETT—Is the regional initiative you mentioned separate to the humanitarian initiative?

Mr Vardos—It is the settlement services that will be required to support the regional settlement initiative in the migration program.

Senator BARTLETT—So does that have any linking in with people coming in through the humanitarian or refugee program?

Ms Bryant—The regional settlement package contained a number of funding components. There was funding in there to increase grant funding in regional areas through a community settlement services scheme. Those CSSS organisations that we fund in regional areas will cater for a variety of client groups, including refuge and humanitarian entrants, family stream entrants and the families of skilled migrants settling in those areas. It also includes money to support a new settlement planning framework and money to support the cost of assisting humanitarian entrants to travel to regional areas—in effect, the cost of transporting them from the metropolitan centres where they arrive to the regional locations where we settle them.

Senator BARTLETT—So that is basically for anyone who is a recent arrival who chooses to live in a regional area?

Ms Bryant—Yes. Clearly with limited funds the purpose of the planning arrangements is to identify where numbers of settlers are arriving and where the pockets of need are and to target our services accordingly.

Senator BARTLETT—Again, does that apply to the 100 or so Afghanis who are going to come from Nauru who might go to Young, Murray Bridge, Albany or wherever?

Mr Vardos—Their movement is in effect up to them. Clearly there is encouragement to move to areas other than metropolitan areas. There are a range of settlement services already available in regional Australia. The purpose of this initiative under the regional settlement program is to develop a set of services to actually attract people to settle in particular locations. If some of these people were eligible for settlement services in the broad and settled in locations where we were going to run pilot programs then the short answer is they would be eligible, yes.

Senator BARTLETT—But they are not eligible for settlement services in the broad if they are on TPVs, are they?

Mr Vardos—Not on TPVs, except for the elements that Ms Bryant mentioned earlier.

Senator BARTLETT—I am not sure if you are aware of this, but certainly there are some requests from some regional communities that have significant populations of people on TPVs already for them to be able to stay in those communities. This package of measures would not relate to that situation at all?

Mr Vardos—No, except for the limited access to the range of services that Ms Bryant mentioned. Of course, that is not to say that state and territory government jurisdictions do not have services that they are making available. They may be making them available to TPVs, but for our program the short answer to your question is no.

Ms Bryant—I would also add that temporary protection visa holders are eligible for a range of mainstream services, so of course they are eligible for income support, assistance through the Job Network, Medicare and a range of mainstream services of that nature.

Senator BARTLETT—Thank you.

Senator KIRK—The table at the bottom of page 117 of the PBS, 2.1.2.2, is not terribly helpful, because it just lists the outputs down the side in output groups but it does not actually break them down any further into the funding items. I wonder if you might be able to provide the committee with a better breakdown of the funds there.

Mr Vardos—We will take that on notice and give you the detail. Do you want it under all four outputs of outcome 2?

Senator KIRK—For example, 2.1 covers five output items, so if you could detail those for us that would be most helpful.

Mr Vardos—Yes, we will take that on notice.

Senator KIRK—I want to ask about IT and pages 108 and 109 of the PBS. From what I understand, page 108 talks about DIMIA's overall IT outsourcing and then page 109 talks about the implementation of IT disaster recovery measures. I understand they both relate to outcome 2, but isn't it the case that they are more relevant to output 1? How do they relate to your output?

Mr Vardos—I might have to take that on notice. I think this may be an attribution. There is someone from our financial strategy division who is better equipped to answer this question.

Mr Hackett—The measure reported under outcome 2 for IT does apply to outcomes 1, 2 and 3. The same text is reproduced under all three.

Senator KIRK—Is it split amongst the three outcomes?

Mr Hackett—That is correct. For example, for the first one, \$19 million for 2004-05 is the total across all three outcomes.

Senator KIRK—Perhaps a note could be made of that. It is a little confusing when you are reading it because it looks as if it just applies to outcome 2.

Mr Hackett—We have to follow the guidelines put out by the Department of Finance and Administration. I understand the concern that it does not provide the information, for example, on how much of that relates to outcome 2. We will take that up with the Department of Finance and Administration if you like.

Senator KIRK—So you do not have the breakdown even for your own department?

Mr Hackett—We do. A part of that is attributed to the outcome itself so we do have a breakdown. We have to allocate a part of that to each of the outcomes and we can provide that for you.

Senator KIRK—Yes, if you could take that on notice that would be helpful. I have some questions, also, on the settlement services database. Mr Ferguson asked a question of the minister—question No. 3243 is the number that I have here—the answer to which was provided on 11 May. The answer seems to indicate that geographical data is missing for one-fifth of all settler arrivals during 2002-03. Could you advise the committee what the current process is for requiring settlers in the skilled family and humanitarian streams to advise DIMIA of their intended place of residence in Australia?

Ms Bryant—I will endeavour to provide you with some additional information on notice. In broad, the way we collect data for the settlement database is that when incoming passengers complete their passenger arrival cards they report their intended destination and that is entered into the department's systems. That data is then put into the settlement database. That is one of the ways we measure settlement arrivals by local statistical area. It is stripped off other departmental systems, our visa issuing systems and the passenger arrival cards. It is drawn from a couple of different sources.

Mr Vardos—Where people ultimately locate is something over which we have no control, other than for those people we are resettling under the humanitarian program. We have some role where they are placed but people in the other categories, irrespective of what they say on arrival, are free to move wherever they like.

Senator KIRK—So there is not way of monitoring where the people end up?

Mr Vardos—Ultimately, data from Centrelink or the Health Insurance Commission is probably an indicator of where the people end up, but it is not something that we are able to monitor.

Ms Bryant—We update the settlement database. The one place we can update our departmental records from is the Adult Migrant English Program enrolment data. Where people enter Australia and then enrol in the Adult Migration English Program, that updates our records. It shows the location of people who have enrolled in English classes, so it is one source of updating from our own records.

Senator KIRK—But it seems that it is nearly always going to be about 20 per cent out. Is that fair to say?

Ms Bryant—Internal migration is something that is notoriously difficult for even the Australian Bureau of Statistics to manage in an accurate way. As Mr Vardos said, once people enter Australia and have a right of permanent residence, we do not monitor where they are residing at any point in time, and we have no way of tracking that at present.

Senator KIRK—On page 68 of the PBS there is an indication that there is an additional \$154.3 million over four years for services to the expanded humanitarian program. It appears as though this would cover other portfolios as well as DIMIA.

Mr Vardos—Of the \$154.3 million, there is \$71.3 million for DIMIA and \$83 million for other federal agencies. If my maths is correct, 71.3 and 83 add up to 154.3. I am sorry; I am told that the .3 is in the wrong place. It is \$71 million for DIMIA and \$83.3 million for other agencies.

Senator KIRK—Are you able to give us the breakdown between the various services—that is, the Integrated Humanitarian Settlement Strategy, English tuition, special preparatory program and Adult Migrant English Program? Do you have the figures for those?

Mr Vardos—Arising from the budget initiatives?

Senator KIRK—Yes.

Mr Vardos—Yes, we can. To give you a comprehensive answer we will probably take it on notice.

Senator KIRK—If you could. That is for the \$71 million. Can you break it down into those categories?

Mr Vardos—We will be able to break down the \$154 million. We can give you the answer now.

Senator KIRK—Okay.

Ms Bryant—Funding out of that \$71 million that is attributable to IHSS services related to the increased number of people is \$28 million over four years. Funding for the AMEP is \$18 million over four years. For the translating and interpreting service it is \$1.8 million over four years. To facilitate humanitarian settlement in regional areas it is \$1.1 million over four years. The balance of the funding is for travel for the increased refugee numbers. That figure is \$12.2 million over four years. Medicals for the increased number of people is an additional \$2 million over four years. There is funding in there for the UNHCR of \$3.6 million over four years. For visa processing costs it is \$4.3 million.

Senator KIRK—Can you confirm that there is no corresponding increase in the MRC and CSSS funding under output 2.1.3?

Mr Vardos—Out of the settlement services review initiative, which I explained to Senator Bartlett earlier on, there is a proportion of funds going to community grants activities. We can give you details.

Ms Bryant—There is an additional \$8.5 million over four years for actual grants to organisations, of which \$4.9 million is earmarked for regional settlement initiatives. The balance is generally available for increased support for migrant resource centres and CSSS funded organisations. So it will be for migrant community services wherever that funding is best allocated to meet need. There is a small amount of money in there for established communities, which is funding for the six months from July to December, pending their transition to the program Mr Vardos alluded to earlier, which has been created in the budget of the Department of Health of Ageing.

Mr Vardos—There will be continuity between continued funding from DIMIA programs until the end of this calendar year. Then those programs will commence in the department of health with that allocation of \$11.6 million over four years that I mentioned earlier on.

Senator KIRK—I am looking at Minister Hardgrave's press release from today and trying to get my mind around that.

Mr Vardos—I am not familiar with today's press release, I am sorry.

Senator KIRK—You have not seen it?

Mr Vardos—No. Ms Bryant has indicated that she is able to respond.

Ms Bryant—I presume you are alluding to the fact that the minister announced today the allocations to CSSS funded organisations and also the allocations to migrant resource centres?

Senator KIRK—Yes.

Ms Bryant—I am familiar with the press release.

Senator KIRK—It seems that he is saying that there is \$8.1 million that will be allocated to MRCs out of a total of \$27.6 million. Is that correct?

Ms Bryant—The allocation to migrant resource centres and migrant service agencies for the year 2004-05 is in fact \$8.01 million.

Senator KIRK—Can you give us some comparison with the amounts that were allocated to MRCs in 2002-03 and 2003-04?

Ms Bryant—I do not have with me the allocation for 2002-03. I do for 2003-04. It needs to be noted that this year the funding has altered a little because there has been an amalgamation of the two migrant resource centres in Western Australia and core funding to the Botany MRC has ceased. If you compare the 28 MRCs which remain, the funding for those 28 MRCs in 2003-04 was \$7,477,692 and the funding for those 28 MRCs in 2004-05 was \$8,010,823.

Senator KIRK—I was going to ask you about what appears to be an apparent decrease in the funding for MRCs, but you say the explanation for that is the amalgamations in Western Australia.

Ms Bryant—The amalgamation in Perth and the cessation of core funding to Botany. Botany is in receipt of a CSSS grant but not MRC core funding. So when you compare the 28 to the 28, there is no reduction.

Senator KIRK—In fact, there is a slight increase.

Ms Bryant—Yes, that is correct.

Senator KIRK—That is helpful. Thank you. We can move on to increases in the Migration (Non-Humanitarian) Program and regional migration settlement services, which are on pages 74 and 75 of the PBS. Page 75 indicates that \$8.3 million has been provided to the department over four years to be focused on the provision of English language tuition and additional adult migrants. This is under the heading of 'Migration (Non-Humanitarian) Program'—is that correct?

Mr Godwin—Yes.

Senator KIRK—The moneys made available to assist their families and increased refugee settlement is on page 76 under 'Regional Migration Initiatives'. Does that follow? I am left unclear as to what the overall position is regarding access to DIMIA funded settlement services by holders of skilled independent regionals and their dependants. What is the relationship between the two? There is also the new state government sponsored retired investor visa. How does it all fit together?

Ms Bryant—I may have to take some aspects on notice. The regional migration initiatives and the Migration (Non-Humanitarian) Program entries that you refer to, on pages 74 and 76, appear under outcome 1. I am not in a position to comment in detail on the cost attribution there. The entries under outcome 2 relate to settlement services for humanitarian entrants settling in regional areas. Also, because the government has sought to support regional settlement of skilled migrants and their families, and taking into account that there is less infrastructure and overall support of a settlement nature for people in regional areas, it has

made funds available to support people from all migration streams settling in the regional areas.

Senator KIRK—So those persons are able to access the settlement services—things such as English language courses?

Ms Bryant—Yes. There are arrangements under which people access adult migrant English classes anyway. My colleague Ms Ellis may wish to comment as well. Basically, for humanitarian entrants, those are provided without fees. Skilled migrants and the families of skilled migrants have always been able to access adult migrant English classes but some of them do pay a fee.

Senator KIRK—I am wondering about this new state government sponsored retired investor visa which we tried to find out about this morning. Are the state governments making any financial contribution to the settlement services provided to people who come under that category of visa?

Mr Vardos—We cannot answer your question directly, Senator, because I am not sure that we know. State governments do provide a variety of settlement services from their own funding, but I do not think we could tell you whether it targets that particular group.

Senator KIRK—What access do temporary visa holders in regional areas have to social security payments and Medicare payments?

Ms Bryant—We would have to take that on notice.

Ms Godwin—It depends on the category of visa. Certain categories of visas have access—for example, TPV holders—but other categories of temporary or provisional visas do not. As I say, it really depends on the visa category. If you want further information on that, we would need to take it on notice.

Senator KIRK—If you could, please take it on notice and provide us with the breakdown of the categories of visa and what the entitlements are. I will move on to the review of settlement services. The PBS indicates that DIMIA is implementing the government's response to the settlement services review. Can you give us some more detail as to the precise nature of the government's response to the settlement services review?

Mr Vardos—Yes. As I mentioned, the funding that has emerged through the response to the review totals \$100.9 million over four years. An amount of \$83.6 million is for DIMIA initiatives and \$17.3 million is for other federal agencies. The funding coming to DIMIA is as follows: \$41.9 million to improve support for special humanitarian program entrants and coordination of the IHSS to strengthen support for volunteers within humanitarian settlement arrangements. That addresses recommendation 36 of the review. There is \$36.8 million over four years to increase funding of English language tuition under the special preparatory program of the AMEP. That addresses recommendation 49 of the review. There is \$4.9 million, as Ms Bryant mentioned earlier, to improve the adequacy of grants funding levels under the CSSS and to strengthen performance and accountability measures, which addresses recommendations 40, 56 and 60 of the review.

Of the funding going to other federal agencies, \$13.2 million over four years will go to the Department of Family and Community Services for the expansion of JPET and the Reconnect

programs and increased family support. That addresses recommendation 15. There is \$4.1 million over four years for the Department of Employment Services and Training for expansion of the language, literacy and numeracy program. That addresses recommendation 15. As I mentioned, there is an additional \$11.6 million on top of the \$100.9 million for the Department of Health and Ageing to strengthen culturally appropriate aged care for established communities, which addresses recommendation 39.

Ms Godwin—All of that is additional to those elements of the review that the government announced and funded last year. There were certain elements of the review where action was taken last year to increase services in line with recommendations of the review. So the total response to the review needs to be looked at not just in terms of this current budget but also for a range of provisions over the last couple of years.

Senator KIRK—I understand. Are we able to get a copy of the report? You listed a number of the recommendations there and it would be helpful.

Mr Vardos—The report of the task force was released—

Ms Bryant—Are you talking of the settlement services review itself?

Senator KIRK—No, the recommendations of the task force.

Ms Bryant—That is a document which was a report to government and, to my knowledge, it does not propose to release it. That may be something that we could raise with the minister for you.

Senator LUDWIG—We can. Minister, are you intending to release that document?

Mr Farmer—It is Mr Hardgrave, I think.

Senator LUDWIG—Yes, but I am sure that the minister can take that up with Mr Hardgrave—

Senator Vanstone—I will take that up with Minister Hardgrave for you.

Senator KIRK—So you are in the process now of implementing those recommendations that you mentioned from the review—is that correct?

Mr Vardos—For all of those initiatives the funding commences in the next financial year. There are activities, as Ms Godwin mentioned, that commenced some time ago, but all of the initiatives I mentioned start from the 2004-05 financial year onwards.

Ms Bryant—Just to clarify, the recommendation numbers that Mr Vardos was alluding to are recommendations not in the task force report but in the report of the settlement services review itself.

Mr Vardos—Which I tabled, I think, two hearings ago.

Senator KIRK—Yes, that is available; you are quite right. Are there any further consultations that need to take place before some of the recommendations can be implemented—for example, with state and territory governments?

Mr Vardos—Yes, Senator. We have an ongoing dialogue with state and territory governments. They are key stakeholders in this settlement process. The revitalisation of the settlement planning framework, which will involve state services as well, is on the agenda.

The short answer is, yes, we will be engaging more thoroughly with state and territory governments.

Senator KIRK—Will you be working with any other agencies?

Mr Vardos—We will obviously have an ongoing relationship with the other federal agencies that receive money through this process. We certainly want to make sure that the programs they have received funding for are being implemented for the benefit of our client group.

Ms Bryant—We have undertaken to also consult with the sector itself in terms of the assessment and eligibility criteria and such matters for the new combined grants program. So there will be further consultation on matters of detail with the sector itself.

Mr Vardos—There is no shortage of consultation. It is part of the way this sector works.

Senator KIRK—A point of clarification: I was talking before about the temporary regional visas and there was some confusion as to whether I meant TPVs, which I did not. I am talking about the skilled category and the retiree category of regional visas. Is that what you said you would take on notice or are you able to—

Ms Godwin—Yes, because it depends on the category as to what access they have got to various forms of social security—

Senator KIRK—So you are not able to tell me now about the skilled and the retiree category?

Ms Godwin—I do not have it and I do not know whether anyone else at the table has.

Senator KIRK—Why is that? Is it not available yet because it is a new scheme?

Ms Godwin—No, it is just that I do not have it and the people from program 1 have gone.

Mr Vardos—We are not familiar with all of the visa categories under program 1 to enable us to draw a correlation between the visa number or category and the availability of settlement services.

Senator KIRK—I will move on to humanitarian settlement services. The PBS indicates the figures for the next number of financial years. What are the precise measures that will be implemented in order to improve support to SHP settlers?

Ms Bryant—I presume you are alluding to the measures on page 112 of the PBS. If so, that package of assistance comprises the funding of medicals for special humanitarian program entrants from off shore. It includes funding for the base capital for a loan scheme, which will assist people to participate in no-interest loan schemes and to meet the costs of airfares to bring their family out here. It also consists of extending part of the initial information and orientation assistance to special humanitarian program entrants. It will not involve, for example, meeting them at the airport, because their families can do that; but it will involve connecting them up with the essential services, as we do for refugees—Centrelink, Medicare, bank accounts and those sorts of things. It will also include accommodation support for those who find it most difficult to locate accommodation. That might, for example, include those with more limited English ability and those with much larger families. There is also some funding to improve case management and coordination

across the service elements and to strengthen the support for volunteer participation. Those are the components of that assistance.

Senator KIRK—You talk about stronger case management and coordination across the IHSS service types and strengthening the role of volunteers. Could you give us some more detail as to the specific measures that will be implemented to improve this case coordination?

Ms Bryant—Some of those are yet to be agreed with both the minister and the sector, but we have in mind that it will involve additional funding to one of our contracted service provider elements. Most probably, the initial information and orientation assistance provider will negotiate contract variations with them to give them the specific responsibility of networking, coordinating and case managing across services, including the accommodation support household formation, and coordinating all of those things. So it will be a responsibility we will assign to one of our contracted service types.

Senator KIRK—When are those arrangements due to commence?

Ms Bryant—The funding is available from 1 July, so we are seeking at the moment to develop proposed contract variations, which will be the subject of discussion with our contracted providers as contract variations in June.

Senator KIRK—Is there any additional funding allocated for that?

Ms Bryant—Yes, there is.

Senator KIRK—What is the amount?

Ms Bryant—I think I gave that breakdown before, but for coordination it is \$1.1 million per annum.

Senator KIRK—How exactly do you intend to strengthen the role of volunteers? What is meant by that? What are you going to do?

Ms Bryant—One of the comments to the settlement services review and also to the IHSS evaluation was that it was important that volunteers were appropriately supported, managed, trained and so on, and one of the key areas that we are looking at there is how we can strengthen the support through funding the cost of managing volunteer participation and also increasing training support to the sector.

Senator KIRK—Is there additional funding allocated for that?

Ms Bryant—Yes, it is \$1 million in 2004-05 and \$1.1 million in each of the next three years.

Senator LUDWIG—When is the request for tender for the next IHSS tender round expected to be released? Is it in the first quarter?

Ms Bryant—Under the timetable that I think we originally gave the sector, we said we would issue a discussion paper, which we did do earlier in the year. We would then have two further stages in the tender process—namely, a request for expressions of interest, which at that stage we were anticipating would be late May or June; and the formal request for tender in September-October. We are currently reviewing the process for the tender, in discussion with the business adviser and the probity adviser that we now have appointed as part of the procurement process, and we are taking their advice on the best way to seek input from the

market and so on. There may be some modifications to the process that we had outlined to the sector in the light of those discussions, and when they are completed and we have a clear idea of exactly how the process will be conducted we will be advising the sector.

Mr Vardos—I would like to add that we are going to go through the process of extending the existing contracts until September 2005 to allow us enough time to conduct the tender process.

Senator LUDWIG—The PBS, at page 56, said it was going to be in the first quarter of 2004-05, so that is now not going to happen?

Ms Bryant—No, I think the timetable will still be broadly consistent with that.

Senator LUDWIG—When are the existing contracts due to expire?

Mr Vardos—I think they were due to expire on 30 June this year.

Senator LUDWIG—So you are not going to make that one?

Ms Bryant—No, we are currently negotiating with our existing providers to extend all their contracts to 30 September 2005. In the interim we will have the request for tender process, which will be conducted in the first six months of 2004-05. We anticipate still having all the tender responses in before Christmas. We would evaluate them over the Christmas period and so on, and then in the first several months of next year we would be negotiating with the successful tenderers and signing contracts. There will be a period of some months allowed in the process for that discussion and negotiation, and then towards July there would be a sort of three-month transition where any new providers would be taking over. That is roughly the attribution of time to September 2005.

Senator LUDWIG—What was the reason for the probity process to be called in? Was there a perceived problem with the original RFT?

Ms Bryant—No. It is quite the norm with any tender process—

Senator LUDWIG—I understand it is quite the norm. It is just that you seemed to add it as an explanation as to why the process was going to take a little longer.

Ms Bryant—I think I was trying to recall the list of advisers that we have, because we have a business adviser, a financial adviser, a probity adviser and a probity auditor to the process—and a legal adviser, I have just been reminded. So we have advisers.

Senator LUDWIG—Has the consultation on the IHSS discussion paper released in February now concluded?

Ms Bryant—Yes, it has.

Senator LUDWIG—How many responses were received by the department?

Ms Bryant—Seventy-five.

Mr Vardos—And 253 people attended the community consultations around the country.

Senator LUDWIG—Was there a summary paper which dealt with the general thrust of the responses?

Ms Bryant—We are completing that at the moment. I do have some preliminary bits of information I could assist you with if there were some areas you wanted to pursue. We will be providing the minister with a report on all of those very shortly.

Senator LUDWIG—If that is able to be released to the committee prior to the response date for questions, I would be happy to receive it, but it would obviously be a matter for the minister to consider and advise on. We can always come back to it. Is it expected that there will be the same terms or revised terms for the RFT that is going to be developed for the next round?

Mr Vardos—Clearly, given some of the issues that have arisen in the consultations and the submissions, to the extent that we are able to incorporate new ideas and new approaches that we are comfortable with and the sector is pushing for then, yes, the specifications will change slightly from the existing program. But clearly we will have to make it work. It is not just a question of taking everything that was recommended in the papers and the consultations and plonking it into an RFT. It has to be a workable framework.

Senator LUDWIG—You are going to extend the current contracts. How many contracts are out there at the moment?

Ms Bryant—Thirty-nine.

Senator LUDWIG—When is the first contract due? Is it on 30 June?

Ms Bryant—I would have to double-check, but I think at this stage the earliest expiries are on 30 June. I think the majority of them are on 30 June this year and we have a small number that could be counted on one hand that expire a little bit after 30 June. I could give you a detailed list of those dates. We are in the process of extending them all.

Senator LUDWIG—That would be helpful, thank you. The PBS refers to increased humanitarian settlement in targeted locations and talks about trials in regional settlements. It is understood that this is a cooperative endeavour with the states in four locations. In what states will the target locations be?

Ms Bryant—That is not yet determined. We are engaged in the process of discussion with our colleagues. It is proposed that the state premiers in each case will be formally consulted in the near future. They will be consulted on the criteria on which we select the areas and on the areas they would wish to nominate for people to settle in in their state. If it is not appropriate to commence settlement in an area in 2004-05, they will also be asked to indicate areas where this would be appropriate in 2005-06 and the subsequent years. So it is not just a one-off thing about four locations this year. We will begin with four and build it up, and things that we do not pick up in the first year or that the states do not nominate may yet become areas that are looked at in subsequent years.

Senator LUDWIG—So is it the intention to pick four locations first and then consult with the states?

Ms Bryant—No, the intention is to consult with the states and then settle the four locations.

Mr Vardos—The locations would be a joint agreement.

Senator LUDWIG—There might be two locations in one state, or are you going to have one location in each state?

Ms Bryant—It depends on the responses from the state and territory governments. We do not have those responses as yet, so I think it would be hard to comment.

Senator LUDWIG—At this point are you developing the four locations or are you developing a short list of locations? Which is it?

Ms Bryant—We have developed a set of draft criteria, and I emphasise that they are draft and something that we intend to consult further on. They are the basis on which we would select locations. The criteria are that it is possible to make adult migrant English classes available, that the area is of an appropriate size such that it has the necessary educational, medical et cetera infrastructure available to people, that there is some existing migrant community and that it has a reasonable labour market. We would not wish to pick an area to settle people which had levels of unemployment which were higher than the national average, for example.

We are looking very actively to link people up to employment opportunities. The regions where state and/or local governments identify employment opportunities will be ones that we will be particularly interested in. Of course we want to have torture and trauma counselling facilities. We want to take account of people's need for worship and those sorts of things. We want to have housing. In the main, we are looking at locations that would have a population of 15,000 to 20,000, depending on the state and territory—not very small towns and locations. They are our criteria. As you would imagine, they would throw up a lot more than four possible towns or locations.

Senator LUDWIG—Do you have a short list?

Ms Bryant—We have more than four locations in mind. We will put forward a range of those possibilities but state governments may also put to us additional or different ones, depending on their view of the criteria.

Senator LUDWIG—So it will be a process of negotiation.

Ms Bryant—We will then discuss them and choose them on that basis.

Senator LUDWIG—Are the states and territories aware of whether or not they are expected to provide any contribution? Have you worked out a sharing arrangement or a proposal for one yet?

Ms Bryant—The scope for states to contribute and the role they can play in supporting settlement in regional locations will very much be part of what we discuss with them. There is no formal cost sharing or co-contribution arrangement at this stage, but state government mainstream services will play a key role in ensuring settlement outcomes in regional areas are successful.

Mr Vardos—I need to add that the success or failure of this initiative is not going to hinge on the availability of Commonwealth funded settlement services. It is far greater than that. The short answer is yes, it will involve contributions by us, the federal government, and contributions by state and territory jurisdictions.

Senator LUDWIG—In respect of the support for community services, there seems to be an extra \$0.8 million in 2004-05, \$1.3 million in 2005-06 and \$1.4 million in 2006-07 at page 112 for migrant resource centres, MRCs, and the Community Settlement Services Scheme. There is \$1.5 million for additional DIMIA overheads. Do we have a final figure of the expected spending for MRCs? These new PBSs seem to have reduced the amount of information that is provided to us. It is not a criticism; it just seems to be the way they now provide outputs and inputs.

Ms Bryant—The migrant resource centres and the CSSS funding has always been a significant line appropriation called migrant community settlement services. The funding announced by the minister today for 2004-05 for migrant resource centres is \$8.01 million. He also announced today, I think, the CSSS—

Senator LUDWIG—I was just trying to track that in the PBS. Can I find that figure in here?

Ms Bryant—I think you would find that figure on page 114 in table 2.1.2 under grants for migrant community services. The administered funding is \$27,572,000. That is a combination of migrant resource centres and CSSS funding.

Senator LUDWIG—Could you provide a breakdown of that? Is that able to be done?

Ms Bryant—As in how it is broken down between them?

Senator LUDWIG—Yes. I do not know whether you have been asked this before but you must have a table which provides how the funds are then broken down between both the MRCs internally and the CSSSs.

Mr Vardos—Yes, we can provide a breakdown. It is not just new funds that are committed on an annual basis; that figure will include existing commitments that are already in place. So there are existing commitments plus new approvals, and that forms the total on an annual basis.

Ms Godwin—We have already taken on notice a question asking us to break out the figures in table 2.1.2.2, which is on page 117 of the PBS. This discussion is a subset of that so, rather than trying to give two sets of figures on which you will have a question about how you integrate them, what if we try to incorporate the questions that you have just asked into how we explain the table?

Senator LUDWIG—Yes, I heard Senator Kirk ask a very similar question about the CSSS, but I did not think she was working on the page that I was on.

Ms Godwin—No, she was not, but they are not unrelated. I am just suggesting that, rather than giving you two completely—

Senator LUDWIG—I am happy to go that way.

Ms Godwin—Thank you.

Senator LUDWIG—I will skip the next couple of questions on that area; I can always come back to it, I suspect. Have you been asked about the extra humanitarian places—whether the department can confirm that the administered items grants for migrant community services is not formally linked to the migration program numbers?

Mr Vardos—Can you repeat the question.

Senator LUDWIG—Those grants for migration community services are not part of the migration program numbers?

Ms Bryant—That is correct; they are not related to the—

Senator LUDWIG—They are different line items.

Ms Bryant—Yes, and there is no linkage, so that the funding for these grants does not move automatically with movements in the size of the migration program.

Senator LUDWIG—And it has not been adjusted in this budget in line with the increase in both the humanitarian and non-humanitarian stream places.

Mr Vardos—There is an increase for settlement services, broadly labelled, as a consequence of the increase in the humanitarian program.

Senator LUDWIG—There has been an increase in both humanitarian and non-humanitarian stream program places. That is right, isn't it?

Ms Bryant—There is increased funding for migrant community settlement services—\$8.5 million over four years has gone into that appropriation.

Senator LUDWIG—Do the MRCs and CSSSs get additional funding as well?

Ms Bryant—They are migrant community settlement services, so that bucket funds them in total and, yes, this year there was additional funding available. In part, it was the table you referred to on page 112. This year that funding is for grants in rural and regional areas, and additional grants to organisations in those locations were among those announced by the minister today.

Senator LUDWIG—Perhaps I needed to be out there listening to the minister too. That makes a bit more sense, thank you. If we go to 'Regional Migration Initiatives', where it refers to providing settlement assistance to the families of skilled migrants choosing to go to regional Australia, which is page 111, did the minister make an announcement in that area as well?

Ms Bryant—With the grants announced today, in relation to those organisations in regional areas, the funding has been allocated on the basis of the published criteria. Applicants who applied in regional locations were assessed against their ability to meet the needs of our settlement services target group, which is primarily humanitarian entrants and family stream entrants with lower levels of English ability. However, skilled migrants, whilst they are not a priority in general for our settlement services, have been and remain eligible particularly for information and referral services, and in rural and regional areas they will be the subject of particular assistance, given that announcement today.

Basically, what we try to do with our settlement services is to target the level of support that we give people to the level of support they may need. With skill stream entrants, the principal applicant will generally have a good level of English ability, post-secondary education et cetera and will be able to access information from a variety of sources, including the Internet. Consequently, we put a lot of emphasis on making translated information available on our settlement information web site. For others such as humanitarian entrants,

clearly they need a lot more personalised case management and support, so they get a lot more individual support under the integrated humanitarian settlement strategy. The migrant resource centres and community settlement service organisations in the middle do some information and referral where skilled migrants need a little bit extra, but they also do quite a lot of additional support in particular for humanitarian entrants and family stream entrants with lower levels of English ability, because that is where we find the greatest need for support is.

Senator LUDWIG—So is there any further additional funding for this purpose—for the families of skilled migrants settling in regional Australia?

Ms Bryant—It is part of the overall allocation.

Senator LUDWIG—Still part of that bucket again.

Ms Bryant—It is part of the allocation for settlement in regional locations. I think \$4.9 million was allocated over four years but a proportion of that will support the families of skilled migrants in those locations.

Mr Vardos—That is for initiatives that start on 1 July this year. It is not what was announced today. What was announced today is under existing program criteria under the 2003-04 budget process.

Senator LUDWIG—Will all the families of skilled migrants settling in regional Australia be entitled to it? Or will there only be certain visa categories?

Ms Bryant—It is a resource in the community where people can get a little information and referral to another point. People will access it, basically according to their needs. Where a person in a particular temporary visa category seeks information, these services will endeavour to refer them and connect them up to the best place for them to have their needs met. Depending on the category of entrant, their English language and other abilities they might not necessarily provide them with intense, ongoing case management support.

Senator LUDWIG—The figures do not show how much additional funding there is just for this purpose?

Ms Bryant—No, it is not split into skilled people and other migration streams. It is a net amount to assist settlement from all three migration streams in regional areas.

Senator LUDWIG—So they could be accessed unevenly?

Ms Bryant—I would expect them to be accessed unevenly because they will have different levels of need.

Ms Godwin—It is not an individual entitlement program, unlike the IHSS, which is based on individual entitlements to services. It is why we put a lot of emphasis on identifying the priorities for the service providers. Your point about uneven access is possible. As Ms Bryant said, we would expect them to be unevenly accessed because the priority should go to those with the greatest need. Those with greatest need are the humanitarian entrants, families with low levels of English et cetera. You would expect to see a pattern where the service provider has more of those clients than people from the skilled stream, but we do not rule it out because, as I say, it is a service not an individual entitlement.

Senator LUDWIG—I am trying to get that tie-up between page 114, page 117 and the announcement today. Table 2.1.2 on page 114, ‘Grants for migrant community services’, shows an increase of \$400,000-odd in this budget. What was actual was a bit over \$27 million and now we have got \$27½ million. Is that right?

Ms Bryant—I think you will find the explanation you are looking for on page 117 in table 2.1.2.1—that is, the top table on the page. If you look down and find ‘Grants for migrant community services’ you will see the base figure of \$27.132 million. You will then see in brackets \$932,000. That was a one-off allocation last year to established communities which is not in the base this year. Then you will see \$1.227 million. That is the new money in this budget, which I think tallies up with the tables earlier in the book. Then you will see \$181,000 in brackets. That was a rollover of funds from 2002-03. Again, that was a one-off because it was a rollover of funds from a previous year and is not in the base. You will see the indexation parameter adjustment—

Senator LUDWIG—So you take the \$900,000 from the \$1.2 million, which effectively gives you an extra \$400,000-odd this year.

Ms Bryant—That is right.

Senator LUDWIG—But you say the \$900,000 was a one-off, so you have to take that away from the \$27 million to give you the proper base to start with before you add on your new money, \$1.2 million, to give you \$27½ million.

Ms Bryant—That is correct. The new money is \$1.2 million.

Senator LUDWIG—So you can claim that your spending is \$1.1 million. I must remember that one!

Ms Bryant—The new money this year is \$1.2 million. The \$932,000 was, I think, nine months of funding to established communities. The \$1.2 million includes six months of funding to the designated established communities pending their transfer to the \$11.6 million program in the Department of Health and Ageing. So their second six months of funding will be provided via an alternative avenue. The other \$0.6 million or \$0.7 million is the funding for new regional initiatives. That is the other portion of the \$1.2 million this year. So I think it is quite accurate to take the \$932,000 off, because you are adding the six-month funding back in.

Senator LUDWIG—That is what your budget shows. I am not quibbling with the veracity of that; I was just looking for an explanation.

Ms Bryant—You can see the calculation across that table.

Senator LUDWIG—The IT system for the MRCs seems to be a saga. What can you tell me about that? Has it been resolved yet? Are you going to tell me it is tied up and finished?

Ms Bryant—No, I am not going to tell you it is tied up and finished. What I am going to tell you is that we put out a consultation paper, as you would perhaps be aware from our last discussion, earlier in the year. We got considerable response and interest from migrant resource centres which expressed a number of concerns in relation to the proposed system, including concerns about the use of visa numbers and associated privacy issues, how the statistical reporting system would link with our qualitative reporting process on their work

programs, and the objectives of the system—specifically, whether the system was intended to provide a case management function or whether it was simply a reporting tool.

Given the level of interest and the extent of commentary, plus the fact that the department itself in re-engineering its own processes is looking at new ways of evidencing visa grant, we have decided to defer the introduction of a new system from 1 July to give ourselves more time to consult with the community and address their concerns. We are therefore going to introduce an interim system from 1 July which will be modelled on the existing reporting system for CSSS organisations. It will basically use a system that the MRCs are familiar with—24 of the 28 of them are current recipients of CSSS funding and report to us on that, and so are familiar with the use of those forms and so on. We will adopt those on an interim basis to allow us more time to consult and address their concerns.

Senator LUDWIG—How does that work—the CSSS system that you describe?

Ms Bryant—Basically it is a paper system, a number of forms that they can complete and remit to the department.

Senator LUDWIG—Like a consent form that is signed and forwarded back.

Ms Bryant—No, Senator. The forms are aggregate data only that they provide to the department. The form collects only aggregate demographic data—male, female, approximate age group, ethnicity and then the type of service they sought from the organisation, whether it was assistance with an education problem or immigration information or assistance with income support or referral to a housing provider or whatever. It just records broadly the nature of the assistance they were seeking and the broad demographic information.

Senator LUDWIG—In respect of the privacy legislation, has consideration been given to how that collection of data and information will be proposed, given the Privacy Act?

Ms Bryant—I think we discussed this also in some detail on the last occasion.

Senator LUDWIG—Have you finalised it then?

Ms Bryant—We did, I think, provide the committee with some legal advice that we had obtained about—

Senator LUDWIG—That is a new one!

Ms Bryant—privacy implications in response to questions on notice on the last occasion. So I think there was advice provided to the committee. But certainly the nature of our legal advice is that there is no privacy implication associated with us collecting the type of information we were proposing as a new system, and that is because when people apply for a visa offshore they are informed and give consent at that time to the collection of information in relation to themselves for migration and settlement purposes. So they have already consented offshore and our legal advice is that there is no privacy issue associated with the department collecting and aggregating data from within its own systems that it collected for its own purposes. So there is no technical privacy problem. A perception problem and how people might react to it are different issues, and that is why we will take some more time and consult to try to address those concerns.

Senator LUDWIG—When is that likely to be finalised?

Ms Bryant—We will introduce the interim system from 1 July. It just uses our existing forms for CSSS and extends them, and we will be issuing a further discussion paper once the minister has cleared it. I anticipate it will be June or July that we will issue a further paper to the sector and then we will meet with them.

Senator LUDWIG—If that discussion paper is available to the committee that would be helpful, but obviously you will have to check with the minister.

Ms Bryant—Yes, it will have to be cleared by the minister in the first instance.

Senator LUDWIG—That legal advice has already been provided, has it? You just indicated it was, that is all.

Ms Bryant—I think it was in response to a question of Senator Kirk's. Yes, Senator, we did. Senator Kirk did ask for advice and a copy of the legal advice was attached to the department's response.

Senator LUDWIG—Has any consideration been given to any IT updating that might be required for the new system or the reporting that is going to be required by the CSSS?

Ms Bryant—I think the interim system we will introduce does not need a lot of systems upgrades because it is a paper based system. The new system, however, will have systems implications. We had made provision to amend the systems. We will still be doing that but we will be doing it in 2004-05.

Senator LUDWIG—What about resources for the MRCs? They will have all the client information and they will they need to update their systems, won't they?

Ms Bryant—Broadly, we are looking at Internet based technology where there is not a special need for a unique system that we have to supply. The MRCs will be able to use the computer systems that they already have in place when we develop the new reporting mechanism.

Senator LUDWIG—You might want to take that on notice. Even if it is Internet based, they may not have cable or broadband, and response and processing times might still require them to upgrade some of their current systems. If they have older computers they might still then be put to the task of upgrading some of those. I am not sure, but that can still be the case.

Ms Bryant—The new system will link to what we call our grants management system, which is an existing system in the department. All of our MRCs currently apply online for their annual funding and I think they also report online through that system. They have the technical capacity currently to interact with that system for other purposes and I do not anticipate that that will be different for submitting statistical reports.

Senator LUDWIG—In relation to the financial support for agencies, in the February 2004 estimates in answer to a Senator Sherry question about whether it would be at the expense of the migrant resource centres, you said:

I would have to check on that and on all the circumstances that have arisen in previous years ...

Senator Sherry then asked:

What was the cost of this national computerised settlement client information system?

Are you currently developing a national computerised settlement client information system?

Ms Bryant—I have got the *Hansard* here. I will have a look at the context of what I was saying.

Senator LUDWIG—It is on page 76 of the *Hansard*.

Ms Bryant—I can check on that for you, but when the department first introduced what is the client statistical reporting system that has existed to date it did, I think, supply the hardware and software for organisations to use. So it both funded the provision of equipment and provided training. It also invested a good deal of money itself in trying to rectify problems, to the extent that organisations were not bearing direct costs as a consequence to any degree. Any cost of reporting to us was of course part of their grant funding—we were funding them for their functions, including their reporting functions.

Senator LUDWIG—How long ago was that? That was a one-off funding initiative to provide them with computer hardware and software?

Ms Bryant—I think it was a one-off historically, but I would have to check on the introduction date and so on for you.

Senator LUDWIG—Was it then expected that they would fund replacements out of their own budgets after that?

Ms Bryant—I think some of them were funded specifically to do that, in subsequent grant rounds and so on—there was a period where small amounts were given as grants to people to replace technology. Again, I can check for you.

Senator LUDWIG—All right, and also whether or not that is still available if people do have technology that might need updating.

Ms Bryant—In the normal course of events we do not give them those same sorts of small grants now, but historically I believe we did on various occasions.

Senator LUDWIG—So they are now expected to provide hardware or software upgrades out of their own budget that you provide?

Ms Bryant—That is correct.

Senator LUDWIG—Is the migrant resource centres proposal for a single MRC-CSSS program part of the review that is going on that you are going to provide to the minister shortly or is that another program?

Ms Bryant—The settlement services review recommended that the funding for migrant resource centres and CSSS be combined so that the appropriation was, in effect, treated as a genuine whole and that people applied for funding for advertised needs. So a needs based planning process is to be introduced which will identify the needs we are seeking to fund and then invite applications to respond to those needs. The paper I referred to earlier is in fact a paper on the detail of how we would propose to implement this combined grants program, and it sets out things like what the eligibility criteria would be under the new program, the assessment criteria for grants and the priorities for funding. All of that sort of information as to our proposed method of operating will be set out. Once the minister has had the opportunity to consider it and clear it, the intent would be to release it publicly to the sector—as we did with the IHSS discussion paper that we released in February—and to hold a similar

process of consultation and interaction directly with the sector and then, as appropriate, to modify it or otherwise in the light of the responses we receive.

Senator LUDWIG—So at this point in time you have not consulted; you are developing a proposal. You will then go through a consultative process and come back with or without a final model, as the case may be.

Ms Bryant—Which would then become the subject of normal departmental guidelines, which would be on our web site for potential grant applicants to follow.

Senator LUDWIG—Do you have a time frame for that?

Ms Bryant—The review spoke of a time frame of two to three years. Two years would take us to 1 July 2005-06, three years would take us to 1 July 2006-07 and I think the final time frame for full implementation will depend on both the response to the consultation process and, clearly, the minister's views on progressing change.

Senator LUDWIG—On the settlement services for migrants, recommendation 39 provided for consideration to be given to a separate grants program for longer resident communities. Has anything come of that?

Ms Bryant—The government responded to that by announcing in the budget the allocation of \$11.6 million to a new program in the Department of Health and Ageing.

Senator LUDWIG—Will that be transferred there?

Ms Bryant—No, it is new money.

Mr Vardos—It is new money allocated to the department of health. The requests that were coming from those established communities for access to CSSS funding were of an ethnic aged character. That is what the funding was for, so it actually fits better within the Department of Health and Ageing than to be funded from our community grants program.

Senator LUDWIG—When will it be transferred?

Ms Bryant—I think I indicated to you before that we have funding this year in the budget to fund them from July to December 2004, and then from 1 January 2005 it is our understanding that the new program will commence in the Department of Health and Ageing.

Mr Vardos—There will be no break.

Senator LUDWIG—I see: you are going to go up to 30 June—

Ms Bryant—Up to 30 December.

Senator LUDWIG—So it will be extended and then when you are finished hopefully the Department of Health and Ageing will pick up and run with it. Will I have to go to them, then, to ask questions in relation to this program?

Mr Vardos—We are going to provide the transition funds from this portfolio for them to then go to Health and Ageing without a break in their access to government funding for those sorts of activities.

Senator LUDWIG—Will all of the CSSS projects be affected by this decision?

Ms Bryant—Do you mean all of the projects to established communities?

Senator LUDWIG—Yes.

Ms Bryant—Projects to a number of established communities which in their grant applications identify provision of aged care services will be the ones affected. There are a range of other applications from communities which continue to receive a number of new arrivals. Some of our Cambodian and Vietnamese communities are longer established—not as long as the Greeks and Italians, for example—but they continue to have high numbers of family stream arrivals, and of course we continue to fund them as providing settlement services. I think some communities were amongst those which had grants allocated today. From memory, in South Australia a Greek or Italian organisation had proposed to use the considerable expertise that it had developed in servicing its own community to serve the needs of new arrivals. They are funded, as of today in the grants the minister announced, to deliver settlement services to new arrivals—not new arrivals of their own community but of other newly arrived communities.

Senator LUDWIG—Will you go through a handover procedure with the Department of Health and Ageing, including how the grants program works, the criteria and guidelines and all of that, or will you expect them to develop new ones?

Ms Bryant—I think the development of the new criteria in another agency is a matter for the Minister for Health and Ageing.

Mr Vardos—Were they to ask for our advice we would be more than happy to provide that.

Senator LUDWIG—I was trying to get an insight as to whether it is just a matter of picking it up and shifting across or whether it is a matter of ceasing a function with you—which it appears to be—and then having Health and Ageing take the initiative and the money and work out how it is going to distribute the new grants and how it might operate the program.

Mr Vardos—It is the latter.

Ms Bryant—They will have their own guidelines.

Senator LUDWIG—That makes it a little bit clearer for me to follow it through so that I do not ask you questions about how it is going to transfer and what the guidelines are—we do not need to worry about that. There is extra funding of \$10.694 million for increased English language tuition in 2004-05. That continues on from PBS page 40. It appears to include a number of aspects, including extra hours, extra humanitarian program numbers, the inclusion of regional skilled migrants and a reduction in AMEP fees and charges from \$8.163 million in 2003-04 to \$7.970 million in 2004-05. That is at page 50. Can the department provide a breakdown of all the elements that are included in the additional AMEP budget, such as the increased humanitarian program numbers, the extra hours of tuition for some young refugees and the inclusion of the regional skilled migrants? Are you capable of doing that?

Mr Vardos—The funds that were allocated in the budget total \$36.8 million over four years starting 1 July. They are specifically for increased English language tuition under the special preparatory program component of the AMEP. That is what the initiative is. That was a response to recommendation 49 of the settlement services review.

Ms Ellis—The additional funding over the four years for the special preparatory program is specifically to provide humanitarian entrants aged 16 to 24 who have low levels of schooling—that is, under eight years of schooling—with up to 400 hours of tuition, and supplement the existing hours offered to those who are aged 24 years and over to enable them to have up to 100 hours of tuition. The special preparatory program is capped funding and it is separate from the AMEP funding for 510 hours to enable people to get to functional English.

We can provide the breakdown of the funding that you are referring to. Some of that additional funding in AMEP is related to the increased numbers in the programs. That would be just the straight formula that is applied where there are increases in the migration and humanitarian program and that means, therefore, that there would be increased numbers seeking to access their entitlement under the AMEP.

Senator LUDWIG—How do you determine the rationale for a 24-year-old with low levels of schooling being eligible for up to an additional 400 hours of tuition and a 25-year-old with identical schooling will only be eligible for up to an additional 100 hours. Where did the cut-off come from?

Ms Ellis—Up until 1 July this year, the hours available under the special preparatory program were up to 100 hours. Because of the increasing demand, not all people who were assessed as needing that additional assistance managed to get 100 hours. The additional funding for youth is in recognition of the increased numbers in those age groups coming in and the fact that they have quite low levels of education. That group was identified as a group of particular need.

Senator LUDWIG—What proportion of the current humanitarian intake is estimated to be between the ages of 16 and 24?

Ms Ellis—I would have to take that on notice.

Senator LUDWIG—If you would not mind. How many of these are likely to be eligible for extra SPP hours announced in the budget?

Ms Ellis—In terms of the likely numbers who would be eligible it would depend very much on the people who were coming in under the program. It would be difficult to estimate that. There may be some in that age group who have quite reasonable English and will be able to go straight into the AMEP, the 510 hours entitlement. There may be others who have had limited schooling in their first language and therefore would require that more supportive and structured environment under the special preparatory program to get them to the point where they could take better advantage of the AMEP entitlement.

Ms Bryant—I want to add that 13.4 per cent of AMEP clients last year had less than seven years of schooling. I think that answers your earlier question.

Senator LUDWIG—If I can take you to page 115 of the PBS and the fee-free translating and interpreting service, does that show a net loss of funding?

Ms Ellis—The difference there is related to the re-basing of the funding. There is an explanation for that at the top of page 118.

Senator LUDWIG—Is that the note?

Ms Ellis—At the top of page 118, it is one of the outcomes of the review of DIMIA's business processes and costs. In fact, the funding available for TIS fee-free will increase in 2004-05.

Senator LUDWIG—You are going to have to tell me what re-base means. I have worked out what re-phasing is—Mr Farmer and Ms Godwin have helped me work that one through—but re-base is a new one.

Ms Ellis—I would have to refer to my colleagues in the resource management area to give that explanation.

Mr Hackett—The costs that are reported there under each of the outcomes are the total costs in the department. It includes all direct costs, indirect costs and overheads. During the last 12 months, we have undertaken a complete review of business processes and costs as recommended by the government. One of the recommendations of that review was that we adopt a new funding model, which required that we reassess how our overheads are attributed to each of the outputs and the outcomes. As a result of that we have a more accurate attribution of our overheads, and therefore it shows a change in the amount of the overheads being attributed to each of those outputs between last year, which is the old attribution rate, and next year, which is the new attribution rate.

Senator LUDWIG—So there is no 10 per cent reduction.

Mr Hackett—In the direct costs for that program, no, there is not. There is a change in respect of the overheads that are being attributed to the program.

Senator LUDWIG—I see; it is the overheads that have changed.

Mr Hackett—Yes.

Senator LUDWIG—Are they the departmental administered expenses?

Mr Hackett—No, it is corporate type costs. It is costs that are not directly attributed to a single output—for example, for personnel services, for financial services, for legal services and for computing services. All of these sorts of costs form part of an overhead. They have to be attributed to each of the outputs and the outcomes.

Senator LUDWIG—I can understand that.

Ms Ellis—There is actually an additional \$199,000 that has been allocated for fee free interpreting services in 2004-05. In 2005-06 that becomes \$206,000, in 2006-07 it becomes \$209,000, and it is the same figure again in 2007-08.

Senator LUDWIG—On this point, what is your policy regarding the request for the fee-free interpreting from the SAAP?

Ms Ellis—DIMIA provides fee-free interpreting services to six broad groups of individuals and organisations. If you would like me to read through it I can, or I can provide a copy to the secretariat.

Senator LUDWIG—If you provided a copy to the secretariat it would be helpful. There is just some indication that there has been a change in the way you have addressed this issue in respect of your policy in this area. Have you changed it recently?

Ms Ellis—There has not been a change in policy. Perhaps I could explain the apparent change by referring to the fact that there was a resolution in 1998 by the Ministerial Council on Immigration and Multicultural Affairs that jurisdictions would ensure that government funded organisations that they are funding would cover interpreting and translating cost requirements. That is under the broad umbrella of access and equity. There was to be a transitional arrangement whereby a period of time was allowed for those organisations to address the need to include that funding. There are some organisations that have taken much longer than the transitional period that had first been envisaged. The department has, in a number of cases, not withdrawn access to fee-free services where it is clear that there have been those delays. But the department, through TIS National, has been encouraging those agencies to ensure that their funding covers the interpreting and translating requirements.

Senator LUDWIG—Have you had discussions with the Department of Family and Community Services about the provision of clients who cannot effectively use English?

Ms Bryant—I am a member of the interdepartmental committee that the Department of Family and Community Services is consulting with in relation to development of future arrangements under the SAAP. I have explicitly raised it with them in that context.

Senator LUDWIG—Is a resolution on the horizon?

Ms Bryant—I think that is a process of government. It would not be appropriate for me to comment on where government might head in making its decisions on the structure of the future SAAP agreement at this point.

Senator LUDWIG—Is that currently under negotiation?

Ms Bryant—Yes, the SAAP agreement is currently under negotiation.

Senator LUDWIG—When will we know an outcome? Should I direct my questions to the minister?

Senator Vanstone—I do not have particular knowledge of that. I will take it on notice.

Senator LUDWIG—Thank you. Obviously there is an interdepartmental committee that is working on it, and there are some outstanding resolutions between various departments, one of them being the Department of Family and Community Services. I am looking to see what the outcome of that will be. Clearly it hinges on a renegotiation of the SAAP, which I guess is currently on Mr Hardgrave's table—is that right?

Ms Bryant—The renegotiation of SAAP agreements is a matter for the Department of Family and Community Services, and there will be a process of consideration by government in the coming months. I believe the current SAAP agreement with the states and territories expires at the end of 2004-05, so in the next 12 months the government will be determining its policy position and funding position in relation to the next SAAP agreement.

Senator LUDWIG—If I need to follow up on any more, other than what we have already got to, I will put that on notice. I think I asked you earlier about the new measure but maybe it was in the negative, so I just want to clarify it a bit. What assumptions were made to structure a 16- to 24-year-old age group? Where did the 16 to 24 come from? Was it based on numbers of eligible clients or extra hours they will get?

Ms Ellis—I am sure Jennifer Bryant could add to this, but, as I understand it, the age group of 16 to 24 is generally understood to represent youth. Sixteen is the age at which they may no longer be served by the education system. I will allow Ms Bryant to answer.

Ms Bryant—I think that on previous occasions we tabled a booklet called *Australia's support for humanitarian entrants*. It is a little book with a blue cover. I do not happen to have another copy with me on this occasion, but it is something we have given the committee before. You will see that one of the tables in that book is a table of the age break-up of arrivals. There happens to be a very significant number of humanitarian entrants that are in the 16 to 24 age group, and I forget which way the numbers go—either the median or the mean is 21 and the other number is 24. So, on average, it is a very young cohort of people who are entering through the humanitarian program.

Many of these people at this age arrive with very limited schooling and, consistent with the findings of the settlement services review, part of the review's recommendations was that the government consider early intervention strategies to maximise the prospects of this age group connecting to the labour market—further education and so on and opportunities in the future. So it was identified as a priority area.

In looking at the allocation of an increased number of hours for that group, the intent was to look at perhaps broadening the curriculum, at least initially for this age group, to try to give them a broader educational foundation than simply English language tuition—a broader educational foundation that would assist them in their later endeavours to participate in further education and employment.

Senator LUDWIG—What assessment do you make to say that it be 400 hours or less? How is that arrived at?

Ms Bryant—I would have to go back and look at the number of hours, but it correlated with a fairly intensive program for young people over a period of a year. It took their tuition to basically about an extra year at an intensity of hours per week that our AMEP providers tell us is about what that age group can manage and sustain, given that many of them will be trying to have part-time employment as well. That was more or less the basis for it.

Senator LUDWIG—Is DIMIA reducing the cost of managing your translating and interpreting services, or is that reflected in part of the rebase—a new term?

Ms Bryant—I think the answer lies in the rebase.

Ms Ellis—Yes.

Senator LUDWIG—Is that right?

Ms Ellis—It is the rebasing and the rephasing.

[7.35 p.m.]

Senator LUDWIG—We can now go to output 2.3, Australian citizenship.

Senator KIRK—I notice that the total appropriation for citizenship on page 117 of the PBS increases from \$20.826 million to \$26.316 million in 2004-05, but I cannot see very much information as to the explanation for DIMIA increasing the cost of managing

citizenship by this approximately \$3.8 million—almost 20 per cent. Can somebody explain to me why there is this increase and what it is going to be used for?

Ms Ellis—I hate to sound like a broken record, but it is the rebasing and the rephrasing.

Senator KIRK—That again.

Mr Vardos—There was no new funding allocation in this year's budget for citizenship, because we are operating under an existing commitment that goes until 2005-06.

Senator KIRK—It is estimated that the income from citizenship application fees will be \$10.843 million this financial year. That appears to be about 48 per cent of the cost of the citizenship processing system. Does the government have a target level of cost recovery for applications for Australian citizenship?

Mr Vardos—I think that is a historical issue that none of us at the table would have a recollection of. We will have to take it on notice.

Senator KIRK—So you do not have an approximate amount that you seek to recover, like 50 per cent?

Mr Vardos—Some calculations would have been done, but I am not certain what they are and when they were done. I cannot give you a direct answer.

Senator KIRK—If you could take that on notice and give us some advice, that would be helpful.

Mr Farmer—If there is anything we can give you.

Senator KIRK—Yes, if it has been done. I have some questions in relation to what has been described as Australia's largest ever citizenship ceremony—that is how Minister Hardgrave described it—which I understand took place on 9 May. Can someone explain to me the rationale behind that large citizenship event?

Ms Ellis—There were a number of factors. With the significantly increased number of citizenship applications that we have received this financial year, combined with some delays in local councils being able to hold ceremonies because of council elections, a backlog of conferrals had developed. The department is very conscious of the need to try to minimise the delay between grant of citizenship and conferral, and this was one of the strategies that was devised to address the significant backlog that had arisen in Victoria.

Senator KIRK—There were some 2,000 people there?

Ms Ellis—There were 2,111 who were conferred on that day. In the early stages of development of the arrangements for that ceremony there were some 2,500 people in the backlog.

Senator KIRK—Are you saying the backlog arose as a consequence of having to put some of the ceremonies on hold because of the local government elections?

Ms Ellis—It was not so much the department putting the ceremonies on hold. There were local government elections in Victoria, and that has also had an impact in New South Wales. It just meant that they were focusing very much on their elections and did not have the resources

for as many ceremonies as they would otherwise have had. That combined with the increased number of applications resulted in the backlog.

Senator KIRK—What is the average period of time between being granted the citizenship and the conferral of the citizenship?

Ms Ellis—I would have to take that one on notice because it is something that has changed. I will come back to you with a period for 2003-04 if that is fine.

Senator KIRK—Yes, that would be helpful. What was the total cost of this enormous ceremony?

Ms Ellis—The cost that I have seen, and it is not the full cost because there would be some staff salary costs, was of the order of \$193,000.

Senator KIRK—Does that include the venue hire, catering and entertainment?

Ms Ellis—It does.

Senator KIRK—So it includes everything except for the staff costs?

Ms Ellis—That is correct.

Senator KIRK—Who was in attendance by way of departmental officers and federal and state members of parliament?

Ms Ellis—The invitations to the event were sent out in accordance with the Citizenship Ceremonies Code. I understand that, because of the size of the event, there was a considerable number of departmental staff in attendance to ensure that arrangements went smoothly on the day.

Senator KIRK—And the minister was there and spoke?

Ms Ellis—The minister was there and presided over the ceremony.

Senator KIRK—Any other speakers?

Mr John Williams—Apart from the minister, who was the presiding officer, the Deputy Lord Mayor of Melbourne, Councillor Susan Riley, addressed the gathering. There was also a short speech by a representative of the candidates, a 16-year-old girl. Apart from that, there were no other speakers.

Senator KIRK—Does the department have any intention of holding further large ceremonies along these lines?

Ms Ellis—Our hope would be that we would not have such a significant backlog as to have to look at strategies such as that, but it is impossible to say what might happen in the future.

Senator KIRK—I wish to move on to the proposal that the minister made. He wrote to all members of parliament saying that he was considering giving members a standing delegation to preside at citizenship ceremonies if they were to apply to do so. Could you give me some idea of the rationale behind that decision?

Ms Ellis—It was effectively a streamlining of arrangements that were already in effect. Members write from time to time to ask the minister for approval to preside at a ceremony. On each of those occasions the paperwork is produced. There are some members who might

ask for that approval half a dozen times a year. It was decided that it would be a more effective, given that in every case that a member has sought that approval they have been given that approval, and a more straightforward way of dealing with it to ask members to express interest in doing that and to those who were interested provide the standing delegation. One of the complications of the one-off approvals is that they are generally sought for a particular day. The approval is given for that particular day. If there are circumstances such as ill health that mean the ceremony has to be deferred to another time, that means a second set of papers going out for the approval.

Senator KIRK—If this were to occur, what procedures would apply at ceremonies, and whereabouts would they be held?

Ms Ellis—The correspondence that has gone out to members has made it clear that the expectation is that the vast majority of ceremonies would be public ceremonies. Members who have expressed an interest in having the delegation have been asked to sign a letter of agreement that they will comply with the Australian Citizenship Ceremonies Code. It is possible that some of the ceremonies may well be in conjunction with council ceremonies or community groups.

Senator KIRK—So, for example, a member or senator would not be able to hold the ceremony in his or her office?

Ms Ellis—It is possible that circumstances might arise where that was appropriate, but the minister has clearly indicated his expectation that the majority of ceremonies will be public ceremonies.

Senator KIRK—That is only an expectation though, isn't it? If it cannot be enforced then—

Ms Ellis—There are times when there are private ceremonies. For example, if there are elderly people who perhaps might not be up to attending a public ceremony, the ceremony might be held in their home. There are a range of circumstances in which it would be appropriate for that to happen.

Senator KIRK—Would specific approval have to be obtained in such circumstances?

Ms Ellis—In all circumstances the members who have expressed an interest have been given a contact person and details for the relevant state or territory office. Certainly the arrangements would be made in conjunction with the department. There are practical matters such as ensuring that the person has in fact been granted citizenship and obtaining the relevant citizenship certificate.

Senator KIRK—Would a departmental officer have to be present at all ceremonies?

Ms Ellis—No.

Senator KIRK—How then can we be sure that the procedures for ceremonies would be complied with?

Ms Ellis—The procedures are laid out. Local government councils hold ceremonies at which there are no departmental officers. There are procedures. They are provided with appropriate information and training. They are required to return to the department a schedule

that indicates that the person was conferred with citizenship so that our databases can be updated.

Senator KIRK—You have to wonder, as I do, whether or not there would be any restrictions on senators or members perhaps distributing partisan material—political information, I suppose—to people who are present. That is my concern.

Ms Ellis—That would be inconsistent with the requirements of the Australian Citizenship Ceremonies Code. When instances like that are brought to the minister's attention, the minister takes appropriate action.

Senator KIRK—How would it be regulated if there were not a departmental officer present and if nobody made mention of the fact that this was occurring? How would it be regulated.

Mr Farmer—Do you have a worry about whether members of parliament would do this incorrectly?

Senator Vanstone—Give us the names!

Senator KIRK—I have no-one in mind whatsoever, but I do have some concerns that, if it is opened up in this way and if there is no regulation, some members—I would not want to name any names—might take advantage of it. I am just trying to make sure that there are going to be processes and regulations in place to prevent this from occurring.

Ms Ellis—Can I suggest that this is not an opening up. On every occasion in the past when a member has asked to have the authority to preside at a ceremony the minister has provided that approval. The current arrangements could be argued to be a tightening up in that members, prior to being given the standing delegation, are being asked to sign a letter of agreement that they will comply with the requirements of the code. That has not happened in the past in respect of the one-off approvals.

[7.48 p.m.]

Senator KIRK—That is good. We are a very trustworthy lot, apparently. Excellent. I will move on to output 2.3.2. We asked some questions along these lines last time. Is DIMIA currently running any paid advertisements promoting Australian citizenship? If so, for how long will this campaign continue?

Mr Vardos—I will ask Ms Ellis to give you the details but, yes, we are about to launch into the next phase of the citizenship promotion campaign, which involves public advertising.

Ms Ellis—In fact, the campaign has commenced. As a result of the evaluation of last year's campaign, the advice was that we needed to ensure that there was advertising and that the campaign ran over a longer period. In the past, the promotion campaign has focused on the month leading up to Australian Citizenship Day and then there have been events on Harmony Day. There have also been events on Australia Day. We have quite a considerable gap between Harmony Day and the launch of the promotion campaign in the lead-up to Citizenship Day. The advice from the researchers was that we needed to do something in that period to keep the issue in front of people.

As a result of that—in fact, it was last weekend—we commenced advertising. It uses the creative that was developed for the launch of the campaign in 2001, so this is our fourth year. The industry advice, generally, is that by the time of the third year, creative starts to wear out. Certainly, while the advice is that it might be starting to wear out, the application rates are remaining high. In fact, they are higher than they were last year. In the absence of funding to renew that creative, it seemed sensible to continue to use it.

Senator KIRK—You said that advertising commenced last weekend. What month will it continue until?

Ms Ellis—That will go through until September.

Senator KIRK—What is the budget for this?

Ms Ellis—The budget for the advertising between last weekend and the end of the financial year will be of the order of \$500,000. There might be a bit of variation in that because of changes in timeslots that might happen along the way. The budget for carrying that advertising through July to early September is \$1.6 million. In addition to that there is the cost of the use of the talent. Although it was talent that was sourced back in 2000-01, there is a payment that is required each year for the use of the creative and the talent in the creative. That represents \$110,000.

[7.52 p.m.]

Senator KIRK—I can now move on to output 2.4, Appreciation of cultural diversity. In terms of general priorities, I understand from looking at the PBS that your current focus of multicultural policy is on young people, regional and rural Australia, local government, business and the media. Could you give us some specifics as to just how it is that you are looking to implement the department's multicultural policy?

Dr Nguyen-Hoan—The intention there would be for us to work with departments and agencies in order to provide our input in terms of cultural diversity. Although we have the charter of public service and a culturally diverse society, some departments and agencies still require input from us as to how to have culturally appropriate services in terms of young people, the business sector and so on. It is our intention to have a stronger focus than just through the use of the charter.

Senator KIRK—So most of the energy is going to go into inputting information into the existing agencies rather than any new initiatives? Is that what you are saying?

Mr Vardos—We obviously have expertise in this area. We are used in an advisory capacity such as in how to incorporate access and equity issues into new policy. We do that bilaterally; we do it with other agencies. We are seen as a source of expertise in this area and we are happy to provide it as and when required.

Senator KIRK—That is within government, isn't it?

Mr Vardos—Yes, it is within government, but we also have partnerships with business. In fact, we have what we call a productive diversity partnership with business, where the bottom line benefits from drawing on Australia's culturally, linguistically and ethnically diverse community are promoted.

Senator KIRK—Do you have partnerships with any groups other than business?

Dr Nguyen-Hoan—We do have some partnerships with the business sector to make sure that they understand what it means when looking at diversity in the workplace and for clients as well. I cannot recall right now some of the partnerships that we have had, but I can take it on notice.

Mr Vardos—Drake International and AMP are two of the corporations that we have a partnership with in this area. The productive diversity policy document that was launched by the minister was hosted by Drake International.

Senator KIRK—What about non-business sector partnerships?

Mr Farmer—The Living in Harmony program, a part of the multicultural affairs program, has a very wide range of business and community partners. Dr Nguyen-Hoan would know this, but I would say that there are dozens of partners, including many community groups of one sort or another.

Dr Nguyen-Hoan—The partners that we had for Harmony Day 2004 were organisations like AMP, Bunnings, Austereo, McDonald's, Telstra and organisations like that.

Mr Vardos—In the community sector two examples which come to mind are Surf Life Saving Australia and Scouts Australia. We can provide you with a detailed list of both the public and private sector partners.

Senator KIRK—If you could do, that would be most appreciated. In relation to the Live in Harmony program, on page 44 of the PBS I notice that there is an allocation of \$0.2 million which is a carryover. From what I understand, that is unexpended moneys for projects in relation to Living in Harmony. Is it expected that those projects will be completed during this financial year?

Mr Vardos—There is a commitment of \$14 million over four years starting in 2002-03 and finishing in 2005-06 for the Living in Harmony Initiative in its totality. It comprises three elements: Harmony Day itself, the grants program and the partnerships program. The objective is that by 30 June 2005-06 the \$14 million will have been disbursed. It is not just for activities and grants; our administrative costs are covered in that as well.

Senator KIRK—So that is what that \$0.2 million relates to?

Mr Vardos—I might have to take advice on precisely what the \$200,000 relates to.

Dr Nguyen-Hoan—Sometimes there is some delay in terms of the finishing time. For example, certain projects may say that they will take 12 or 14 months but on occasion there is some delay and therefore the final payment may flow out to the next financial year. That is the reason for the movement between financial years.

Senator KIRK—So it is anticipated that those projects would be completed this year?

Dr Nguyen-Hoan—Yes, that is right.

Senator KIRK—In relation to access and equity and the Charter of Public Service in a Culturally Diverse Society, Dr Nguyen-Hoan said to us at the last round of estimates that the department was taking a leadership role in helping the departments and agencies to implement the charter principles.

Dr Nguyen-Hoan—Yes.

Senator KIRK—What progress has been made since the last round of the estimates in implementing access and equity across Commonwealth departments?

Dr Nguyen-Hoan—The access and equity annual report has been tabled in parliament. It was tabled in the House in April and in the Senate in May. As you can see from the report, there has been some improvement—for example, in 2002 only about 19 out of 46 agencies met all of the indicators but, in 2003, 53 out of 58 reporting agencies were meeting all of the indicators. So there has been a great improvements there.

Senator KIRK—Indeed. Well done. Finally, looking at the PBS again, I notice that on page 117 the total departmental allocation for output 2.4 has reduced from \$13,036,000 in 2003-04 to \$10,346,000 in this year. Could you explain that to us.

Dr Nguyen-Hoan—It is the same explanation that my colleague made to you before about rebasing.

Mr Vardos—Program funding has not changed, as Mr Hackett explained. It is that the elements on top of that have been more accurately attributed across the department.

Senator KIRK—I have to get my mind around this rebasing business between now and the next lot of estimates.

Mr Vardos—You are not alone, Senator.

Senator LUDWIG—We will put any further questions in relation to output 2.4 on notice. There was only one matter we wanted to come back to in outcome 2. It is one of the early ones. I have had another look at Mr Hardgrave's announcements today about the CSSS program.

Senator KIRK—The only question really is whether or not there are any of the CSSS projects that, as a consequence of the announcement today, are not going to continue to be funded.

Mr Vardos—Applications that were not approved or ongoing projects where funding has ceased?

Senator KIRK—That will not be refunded into the next period.

Ms Bryant—The short answer is that there are a number of them, but I would take on notice giving you a list of them.

Senator LUDWIG—Do you have them there?

Ms Bryant—There have been a number of unsuccessful applications. In Victoria six are currently funded that are unsuccessful, in New South Wales three are currently funded that are unsuccessful, in Queensland it appears as though one currently funded organisation is unsuccessful and the Northern Territory is zero. That is probably about it, but I can double-check that list and give you the notes.

Senator LUDWIG—I will not take it as a definitive list; it was just an indicative list. Are there names available that you can hand up?

Ms Bryant—I probably do not have it in a form, because what I have got here is a mix—as you could see as I went through it—of some that are currently funded and some that are unsuccessful and not currently funded and that were unsuccessful. I will separate them out for you and tomorrow provide a list of previously funded organisations that have been unsuccessful.

Senator LUDWIG—If you could do that between now and some time tomorrow, that would be appreciated. By lunchtime is fine.

Committee adjourned at 8.04 p.m.