



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS
LEGISLATION COMMITTEE

Estimates

MONDAY, 13 FEBRUARY 2012

CANBERRA

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SENATE
LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE
Monday, 13 February 2012

Senators in attendance: Senators Abetz, Bushby, Boyce, Cash, Crossin, Furner, Hanson-Young, Humphries, Madigan, Pratt and Xenophon.

IMMIGRATION AND CITIZENSHIP PORTFOLIO

In Attendance

Senator Lundy, Parliamentary Secretary for Immigration and Multicultural Affairs

Department of Immigration and Citizenship

Executive

Mr Andrew Metcalfe AO, Secretary

Dr Wendy Southern PSM, Deputy Secretary

Mr John Moorhouse, Deputy Secretary

Ms Jackie Wilson, Deputy Secretary

Mr Peter Vardos PSM, Deputy Secretary

Internal Products: Enabling divisions that provide services and support to the delivery of all programs

Mr Stephen Sheehan, First Assistant Secretary, Financial Strategy and Services Division

Mr Steve Biddle, Assistant Secretary, Financial Strategy and Budgets Branch

Ms Jenny Hardy, Chief Lawyer, Governance and Legal Division

Mr Craig Farrell, Chief Human Resources Officer

Mr Stephen Allen, First Assistant Secretary, Border, Refugee and Onshore Services Division

Mr Jim Williams, Acting First Assistant Secretary, Visa and Offshore Services Division

Ms Marie Johnson, First Assistant Secretary, Client Strategy and Performance Division

Ms Bernadette Levett, Acting Assistant Secretary, Client Strategy

Mr Gavin McCairns, First Assistant Secretary, Risk, Fraud and Integrity

Mr Sandi Logan, National Communications Manager

Ms Renelle Forster, Assistant Secretary, Ministerial and Executive Services Branch

Outcome 1—Managed migration through visas granted for permanent settlement, work, study, tourism, working holidays or other specialised activities in Australia, regulation, research and migration policy advice and program design.

Program 1.1—Visa and Migration

Mr Kruno Kukoc, First Assistant Secretary, Migration and Visa Policy Division

Mr Peter Speldewinde, Assistant Secretary, Labour Market Branch

Ms Paula Williams, Assistant Secretary, Education and Tourism Branch

Outcome 2—Protection, resettlement and temporary safe haven for refugees and people in humanitarian need through partnering with international agencies; assessing humanitarian visa applications; and refugee and humanitarian policy advice and program design.

Program 2.1—Refugee and Humanitarian Assistance

Ms Vicki Parker, Refugee, Humanitarian and International Policy Division

Outcome 3 – Lawful entry of people to Australia through border management services involving bona fide traveller facilitation; identity management; document verification;

intelligence analysis; partnerships with international and domestic agencies; and border policy advice and program design.

Program 3.1—Border Management

Ms Vicki Parker, Refugee, Humanitarian and International Policy Division

Mr Gavin McCairns, First Assistant Secretary, Risk Fraud and Integrity Division

Outcome 4—Lawful stay of visa holders and access to citizenship rights for eligible people through promotion of visa compliance responsibilities, status resolution, citizenship acquisition integrity, case management, removal and detention, and policy advice and program design.

Program 4.1—Visa Compliance and Status Resolution

Mr Christopher Callanan, First Assistant Secretary, Compliance and Case Resolution Division

Mr Robert Illingworth, Assistant Secretary, Strategic Framework and Stakeholder Engagement

Program 4.2—Onshore Detention Network

Mr Greg Kelly, First Assistant Secretary, Status Resolution Services Division

Mr Ken Douglas, First Assistant Secretary, Detention Infrastructure and Services Division

Program 4.3—Offshore Asylum Seeker Management

Mr Greg Kelly, First Assistant Secretary, Status Resolution Services Division

Mr Ken Douglas, First Assistant Secretary, Detention Infrastructure and Services Division

Ms Kate Pope, First Assistant Secretary, Community Programs and Children Division

Mr Stephen Allen, First Assistant Secretary, Border, Refugee and Onshore Services Division

Mr John Lynch, Chief Executive Officer, Independent Protection Assessment Office

Dr Irene O’Connell, Principal Review, Independent Protection Assessment Office

Program 4.4—Illegal Foreign Fishers

Mr Greg Kelly, First Assistant Secretary, Status Resolution Services Division

Outcome 5—Equitable economic and social participation of migrants and refugees, supported where necessary, through settlement services, including English language training; refugee services; case coordination; interpreting and translation services; and settlement policy advice and program design.

Program 5.1—AMEP and Settlement Services for Migrants and Refugees

Mr Garry Fleming, First Assistant Secretary, Citizenship and Multicultural Border Security, Refugee and International Policy Division

Outcome 6—A cohesive, multicultural Australian society through promotion of cultural diversity and a unifying citizenship, decisions on citizenship status, and multicultural and citizenship policy advice and program design.

Program 6.1—Multicultural and Citizenship Services

Mr Garry Fleming, First Assistant Secretary, Citizenship, Settlement and Multicultural Affairs

Migration Review Tribunal and Refugee Review Tribunal

Mr Denis O'Brien, Principal Member, Migration Review Tribunal and Refugee Review Tribunal

Ms Amanda MacDonald, Deputy Principal Member, Migration Review Tribunal and Refugee Review Tribunal

Mr Colin Plowman, Registrar, Migration Review Tribunal and Refugee Review Tribunal

Mr Rhys Jones, Deputy Registrar, Migration Review Tribunal and Refugee Review Tribunal

Office of the Migration Agents Registration Authority

Ms Christine Sykes, Chief Executive Officer, Office of the MARA

Mr Stephen Wood, Deputy Chief Executive Officer, Office of the MARA

Committee met at 09:00

CHAIR (Senator Crossin): I declare open this public hearing of the Legal and Constitutional Affairs Legislation Committee. The Senate has referred to the committee the particulars of proposed additional expenditure in respect of the year ending 30 June 2012 and the particulars of certain proposed additional expenditure in respect of the year ending 30 June 2012 for the Attorney-General's and Immigration and Citizenship portfolios and related budget documents. The committee must report to the Senate on 30 March 2012 and we have set 30 March as the date by which questions to answers on notice are to be returned.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings, and the secretariat has a copy of those if they are needed. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised, which I will incorporate into *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

**Migration Review Tribunal
Refugee Review Tribunal**

[09:02]

CHAIR: We will commence with the examination of the Immigration and Citizenship portfolio and begin today's proceedings with the Migration Review Tribunal and the Refugee Review Tribunal, followed by, of course, the Department of Immigration and Citizenship, with cross-portfolio, corporate and general questions. That will be followed by the Office of the Migration Agents Registration Authority, MARA, and we will proceed through outcomes 1 to 6 in that order.

I welcome the Hon. Kate Lundy, Parliamentary Secretary for Immigration and Multicultural Affairs, representing the Minister for Immigration and Citizenship. I welcome officers from the Department of Immigration and Citizenship. I particularly want to recognise you, Mr Metcalfe. This committee very proudly acknowledges that you were the recipient of an Order of Australia medal in this year's Australia Day honours. I think that on behalf of all of us I can say that we recognise and are very proud of your achievements in that area. As you head off on your study leave, we recognise your long period of service. Perhaps there might be time at some stage in the future for you to come back and report to us on what you have discovered.

Senator Lundy: Perhaps if we finish early, Chair!

CHAIR: That is wishful thinking!

Senator Lundy: Can I also add my acknowledgement of Mr Metcalfe's achievements and his receipt of the Order of Australia honour. Thank you for your welcome this morning.

CHAIR: Mr Metcalfe, I sincerely say that we are very proud of your achievements. We looked back at the record of your achievements, and I am going to take 30 seconds and embarrass you even more by reminding everybody that, as well as your numerous activities during your 30-plus years as a public servant, in September 2010 you were named the Federal Government Leader of the Year. You have also been a board member of the Australian Public Service Commission's Strategic Centre For Leadership, Learning And Development and you have also been a board member of the Australia Day Council since 2002—I wonder what you do in your spare time. We have managed to pull up an article from the *Canberra Times* in 2005 which was headed, 'A new old broom.' I am not sure if you are now an old old broom or a new new broom as you begin another stage in the journey of your life and embark on study leave that you have deservedly earned. On behalf of the committee I would like to place your achievements on the public record. We are very proud to be perhaps the only committee today that can boast a secretary sitting before them who has been recently awarded an order of Australia Day medal: well done.

Mr Metcalfe: Those are very kind words, thank you.

CHAIR: We are going to proceed with an opening statement.

Mr Metcalfe: I am very happy to speak now or perhaps when the department comes before you after the tribunals have given evidence. I am in your hands.

CHAIR: We would like to ask you to speak at the beginning to set the scene for the day.

Mr Metcalfe: Thank you again for those very generous words. I would like to briefly update you on significant developments in the portfolio since we last appeared before this committee on 17 October last year.

In September the government announced its support for the 41 recommendations arising out of the honourable Michael Knight's Strategic Review of the Student Visa Program. The first stage of implementation began on 5 November 2011. This first stage has eased financial pressure for applicants and assisted the non-university sector, implemented the genuine temporary entrant requirement and put in place more flexible arrangements for English language study. The department is now moving ahead with the implementation of the second stage of the government's response to the Knight review, to be delivered on 24 March 2012.

The department has also commenced a review of the Student Visa Assessment Level Framework, which currently forms a risk management approach to the student visa program. The review will report to the government in mid-2012. It is recognised that high-quality lower risk education providers operate across all education sectors. Consideration of a provider based risk management model that recognises and rewards high-quality lower risk providers will be a focus of the review.

As is our usual practice, late last year we consulted widely across Australia in relation to the forthcoming 2012-13 migration program. Over 600 representatives from more than 400 external organisations were invited to attend those meetings with us. The strong

representation at the consultations demonstrated the interest of the wider Australian community in our migration programs and their importance in supporting employers from a range of industries. These consultations have provided timely and informed feedback to government on the size and composition of the 2012-13 migration program, which will be decided in the budget context. Similarly, we have consulted widely on the size and composition of Australia's humanitarian program, taking into account the views of the Australian community, the views of peak refugee and humanitarian organisations, the views of government agencies, the views of state and territory governments, and the resettlement needs identified by the office of the United Nations High Commissioner for Refugees.

A new and innovative pricing model for Australian visas was announced as part of the 2011-12 Mid-Year Economic and Financial Outlook. These visa pricing reforms have been designed to put Australia's visa system on a more sustainable footing by placing a fair price on the benefits of economic and social access while maintaining Australia's international competitiveness in key areas including education and tourism.

There have been a number of High Court decisions in the past 18 months which have required the department to adopt new legal policy directions and to develop new procedures for the processing of irregular maritime arrivals. In March 2011 the government implemented the Protection Obligations Determination process to streamline processing irregular maritime arrivals who are deemed to meet the criteria for protection under the refugees convention. We have discussed this previously.

In light of the High Court decisions, on 25 November 2011 the government announced that the costs of maintaining two separate bodies for review of departmental decisions depending upon how people arrived in Australia is not an effective use of resources and therefore is moving to ensure that all reviews of departmental decisions relating to protection claims are heard by the Refugee Review Tribunal.

In October the government announced that it would be making greater use of existing powers to more flexibly manage irregular maritime arrivals in Australia. This includes greater use of community detention, and for temporary bridging visas to be considered on a case-by-case basis to allow IMAs to reside in the community while their claims are assessed. Over 250 people who were in immigration detention have now been granted bridging visas and are living in a number of locations around Australia. These people have been through a process of appropriate health, identity and security checks, and an assessment to determine what, if any, transitional and ongoing support they may need.

The transfer of children, families and vulnerable individuals into community based arrangements remains a high priority for the government and for the department. Since the announcement by the government on 18 October 2010 to provide community based living arrangements for children and families in immigration detention, the minister has approved almost 3,000 people for community detention including around 750 adults in family groups and over 1,400 children, both accompanied and unaccompanied. As of 8 February 2012, there are more than 1,400 people in community detention comprising children, families and vulnerable adults. At the same time, almost 1,300 clients have transitioned out of the community detention following a protection visa grant. The department continues to work closely with the Red Cross and other service providers to successfully deliver these outcomes, and we again thank them for their support.

We have also made significant progress in relation to immigration detention infrastructure. This includes: the delivery of stage 1 of the Wickham Point IDC, with stages 2 and 3 nearing completion; the commissioning of the Pontville IDC on 17 October 2011; the completion of the design for the dedicated heritage precinct at Villawood IDC; and the continuing construction of the Yongah Hill IDC.

The department of course continues to actively support the Joint Select Committee on Australia's Immigration Detention Network. This has included the provision of over 4,000 pages of written material responding to about 1,500 requests and providing logistical support for a number of site visits. Given the detention issue has been so intensively canvassed before that committee, I am only making limited remarks here in this opening statement, but will of course answer any questions this committee might have.

Sadly, over recent months a number of vessels carrying asylum seekers bound for Australia have sunk resulting in major loss of life. Can I publicly convey our profound sadness at such tragic events. I note that the United Nations High Commissioner for Refugees, His Excellency Antonio Guterres, is presently visiting Australia. We would like to warmly welcome him here. I and others, including Senator Lundy, had the privilege of meeting the High Commissioner yesterday and we look forward to meeting with him again today.

Chair, I would like to take this opportunity to advise you about my own arrangements for much of this year. I have been remiss in taking leave over the years and so I found myself after 32 years in the Public Service with recreation leave and long service leave credits around 12 months. For family reasons, this year provides me with an opportunity for my wife and me to spend some time together travelling. So I will commence several months recreation and long service leave at the end of March during which I will also access study leave to undertake a course at INSEAD, a world-renowned business university in France. I will return to Canberra in October.

During my period of leave, Mr Martin Bowles PSM will act as secretary. I would like to take the opportunity to warmly congratulate him on being awarded a Public Service Medal on Australia Day in recognition of the outstanding contribution he made at the Department of Climate Change and Energy Efficiency. Indeed, we have had a number of departmental officers presented with awards in recent months. In November last year the Hon. Brendan O'Connor MP, then Minister for Home Affairs and Justice, announced the recipients of the inaugural Anti-Slavery Australia Freedom Awards. My department's Merima Trbojevic received an Individual Contribution Award for her work with men and women trafficked, enslaved and exploited in Australia. We congratulate and thank her for her work. On 30 January I was also pleased to present our departmental Australia Day Awards, which recognise the achievements of teams and individuals across the department. I would like, again, to congratulate those awardees. Their hard work, outstanding results and ongoing commitment are greatly appreciated. Chair and senators, as you know, I am particularly proud of the work the department does in fundraising for a variety of charities and causes. I am pleased to report that through a variety of fundraising activities the department's national office social club alone contributed more than \$76,000 in 2011 to a number of charities, which I am sure you will agree, is a fantastic achievement.

We are very proud in the department of our role in building modern Australia. We are properly accountable and seek to be wholly professional in discharging our sometimes

onerous duties. We never forget that we are here to serve the government of the day, the Australian community and our many millions of clients. Sometimes immigration officers are called upon to do some quite extraordinary things, well beyond what many Australians would think that their public servants actually do.

As secretary, I am privileged to see this extraordinary work. These include acts of great compassion and decency, helping people in the most dire and sad situations. We have had one such situation just in the last few days. It is my privilege to work with Australian public servants of such high calibre and such fine qualities, and I would like to take this opportunity to pass on my sincere appreciation to my staff for their ongoing hard work, commitment and outstanding efforts. Lastly, I would like to again note the very valuable contribution made by our many advisory groups and stakeholders and thank them for their ongoing commitment and positive engagement on our many issues. Thank you.

CHAIR: Thank you, Mr Metcalfe. Well said. That is a great acknowledgement of the work your staff does. It is also acknowledged right across the board. We look forward to meeting Mr Bowles. Let's proceed with the program, beginning with the Migration Review Tribunal and the Refugee Review Tribunal. Mr O'Brien, good morning and welcome. Do you wish to make an opening statement?

Mr O'Brien: Yes, I have a brief opening statement. The Migration Review Tribunal and the Refugee Review Tribunal last appeared before the committee in May last year. By way of opening statement I would like to highlight some of the more significant developments since then.

I will start with our case load. Our work load has continued to increase this financial year, with lodgements in both the MRT and the RRT continuing their upward rise. As at 31 December, the details for both lodgements and decisions are as follows. For the MRT, we have had 6,302 lodgements, an increase of 21 per cent when compared with the same period in 2010-11. In the same period, 3,600 decisions have been made, an increase of 28 per cent when compared with the same period in 2010-11. As at 31 December, there were 13,489 active cases with the MRT, an increase of 43 per cent when compared with the same period in 2010-11. While increasing lodgements continue across a number of MRT case categories, the highest rate of lodgements continues to be in the area of student visa refusals. Together, student visa refusals and student visa cancellations account for 41 per cent of current MRT lodgements.

Turning to the RRT, to 31 December we have had 1,577 lodgements, an increase of six per cent when compared with the same period in 2010-11, and 1,234 decisions have been made, nine per cent fewer than in the same period in 2010-11. At 31 December there were 1,446 active cases before the RRT, an increase of 68 per cent when compared with the same period in 2010-11.

The decision output on the RRT has been affected by the loss of experienced RRT members to the Independent Protection Assessment Office. However, despite the loss of those members, I expect that we will come very close to achieving 11,000 decisions across both tribunals this financial year. In 2010-11, by contrast, total decisions were 9,181, as reported in our last annual report. Despite members working at very high capacity levels, our active caseload continues to increase, as I have mentioned with the numbers I have given you.

I mention some key performance indicators to give the committee an indication of our performance against indicators that might show where we are going. First of all, in relation to judicial review applications, despite the increase in the quantity of decisions, I think quality continues to be maintained. The number of judicial review applications continues to be fewer than in previous years, and court remittals also remain low for both tribunals, consistent with recent trends. Of the 4,834 decisions made to 31 December, less than one per cent have been overturned on judicial review. Similarly, the low number of complaints we receive are an indicator of quality decision-making. At 31 December, we had received fewer than two complaints per 1,000 cases decided this financial year.

Turning to RRT 90-day compliance, the growth in the RRT caseload, the loss of experienced RRT members I have mentioned and our resulting inability to constitute cases to members as quickly as we have done in the past have meant a decline in the percentage of RRT cases completed within 90 days from receipt of the department's file. At 31 December, we met the 90 day-requirement in 44 per cent of cases, whereas at the time of our last Senate estimates appearance in May last year, the compliance rate was 72 per cent. I mention something about the changes to the RRT workload. As the secretary has mentioned, on 25 November, the minister announced that as part of the decision to process all irregular maritime arrivals onshore, a single review process for all asylum claims would be established through the RRT this year. This change was welcomed by the tribunals, and we certainly look forward to colleagues rejoining us from the department's Independent Protection Assessment office as soon as possible. We are in discussions with the department to put in place the necessary arrangements for managing this caseload.

I mention something about complementary protection. Since the new legislation relating to complementary protection was assented to towards the end of last year, the tribunals have been planning for the introduction of the complementary protection arrangements next month. We have worked with Professor Jane McAdam from the University of New South Wales on the development of a training manual for our members and we held full-day training sessions for members of the tribunals last week. We will monitor the need for further guidance and training for our members as our experience in applying the new legislation develops. With the introduction of complementary protection and with the RRT being given jurisdiction in relation to irregular maritime arrivals, the caseload will further increase. We have advertised for new members as a result. The selection process is underway and new appointments will be announced by the minister once approved by cabinet. However, over 500 member appointment applications and over 70 senior member appointment applications have been received.

I finish by saying something about our financial outlook for the year. Additional funding of \$13.9 million for four years was provided to the tribunals in the 2011-12 budget in recognition that the operating costs have increased due to increased costs from complexity in decision-making arising from court judgments and from the increases in lodgements. The increases in our appropriation are offset by increases in revenue from increased fees and associated charges.

The tribunals still face significant financial challenges in the present financial year. In particular we have incurred increased costs arising from the net increase in active membership and from increases in member remuneration as determined by the Remuneration Tribunal. In

practice, the rise in member remuneration costs will absorb most of the increase in funding provided to the tribunals in the budget. We have also had significant cost increases in other areas, including staff salaries; property operating expenditure, including new member accommodation in Brisbane; and our interpreting services.

My colleagues and I are happy to elaborate on any of these matters or answer any questions the committee may have.

CHAIR: Thank you for that opening statement and that background about where you are at at this point in time.

Senator CASH: I ask for a copy of your statement to be tabled.

Mr O'Brien: Yes.

Senator CASH: In relation to the increase in the case load, how did the number of cases on hand increase so dramatically from last time you were here?

Mr O'Brien: Over quite some period now we have had an increase in lodgements. The dramatic increase has mainly been due to applications on the MRT, as I have mentioned.

Senator CASH: So that is up 43 per cent?

Mr O'Brien: The on-hand case load has increased by 43 per cent, but that is just due to what has come in and we have not been able to get out in sufficient numbers to our members. But the increases have come mainly in the areas of student visa refusals and student visa cancellations, as I mentioned.

Senator CASH: How many new members have been recruited to the tribunal in the last six months? If there have been any, when are they expected to take up their positions?

Mr O'Brien: We had new members on board from 1 July—or nominally from 1 July. What we always find is that, once a member is appointed, they may have to dispose of an existing practice or what have you, so sometimes it does take awhile to get them on board. But I think we had 23 members who came on board nominally from 1 July; although, as I said, some of them did not in fact start until after that.

Senator CASH: When you say nominally, when did they actually start?

Mr O'Brien: Their terms start from 1 July.

Senator CASH: When do they start making decisions?

Mr O'Brien: They are making decisions now. I might defer to Deputy Principal Member Amanda MacDonald, who can talk a little bit about the training program.

Senator CASH: We do not have time to do that, but I appreciate that. I am interested that you have said 23 came on board nominally. Perhaps you could take on notice to provide to the committee the day on which those 23 people actually commenced making decisions with the tribunal as opposed to nominally commencing.

Mr O'Brien: Yes, we can provide that information.

Senator CASH: Thank you. What additional cost will there be for those new tribunal members?

Mr Plowman: The additional cost of members is essentially their salary and any ancillary costs associated with their equipment.

Senator CASH: I assume you know what that is. Twenty-three came on board. They all start getting paid. What does that cost?

Mr O'Brien: The Remuneration Tribunal determination fixes the amount of their remuneration. That is public information that is there from the Remuneration Tribunal.

Senator CASH: So you can tell me what that is, then.

Mr O'Brien: I cannot tell you offhand, but we can certainly provide that number to you.

Senator CASH: Thank you. Where will each of these members be based?

Mr O'Brien: The majority are in Sydney. They are also in Melbourne. We had additional members appointed in Adelaide. There were just a handful—three or four—in Adelaide. We also had some additional members in Brisbane. As I mentioned, because we appointed additional members in Brisbane, the AAT, where we had been co-located, was not able to accommodate us, so we have had to move out into additional premises in Brisbane.

Senator CASH: Okay. Do you consider the number of tribunal members that you currently have to be enough to carry out your workload?

Mr O'Brien: No, I do not. Indeed, that is why the minister agreed to us advertising for another recruitment round for new members.

Senator CASH: And how many would you like to recruit?

Mr O'Brien: We think that, based on the extra work we are going to be getting from the irregular maritime arrival cohort, we are looking at about 20 full-time-equivalent members. We might need more than 20 because some of them will turn out to be part time.

Senator CASH: And when do you anticipate the additional 20 FTEs coming on board?

Mr O'Brien: It is a matter for the government, but I think we are aiming at 1 July this year for their commencement.

Senator CASH: If they do not come on board, what is the impact going to be on the ability of the tribunal to meet its benchmarks?

Mr O'Brien: We are going to continue to have difficulty. I must say the new members who were appointed from 1 July—

Senator CASH: Nominally appointed.

Mr O'Brien: Yes. Those new members are now starting to really get into the work, and we are seeing an increased level of decision making from them. For example, the second half of this year is going to be better for us in terms of decision-making output than the first half of this financial year. But we are going to be in difficulty until we get our new members on board.

Senator CASH: In relation to the new policies you referred to—particularly the IMAs coming within your jurisdiction—has the tribunal been provided with additional funding to meet the anticipated increased workload for the 2011-2012 financial year?

Mr O'Brien: We expect most of that will be in the 2012-13 financial year. The matter of funding is the subject of discussions involving the department, the Department of Finance and Deregulation and us at the moment.

Senator CASH: One would assume you would anticipate that further funding would be required on the basis of the potential increase in the number of applications being made.

Mr O'Brien: Yes.

Senator CASH: Has the tribunal made any submissions regarding funding for the 2012-13 financial year?

Mr Plowman: We have had discussions with the Department of Finance and Deregulation and the department about that.

Senator CASH: Have you placed a formal submission in the mix yet?

Mr Plowman: No, we have not put a formal submission as yet. We are contributing to the department's budget submission.

Senator CASH: What do you anticipate the expected increase in funding will be, given the demands that will be placed on the tribunal?

Mr Plowman: We are not quite sure. That is a matter for the budget.

Senator CASH: What are you anticipating? Will it be a nominal increase? Will it be a massive cost blowout?

Mr Plowman: I cannot really comment until it is decided by government.

Senator CASH: But one would assume you are anticipating an increase.

Mr Plowman: We are certainly anticipating some additional money, but it is really a matter for government to provide that money.

Senator CASH: How many additional applications for review have you budgeted for in the balance of the 2011-12 financial year? I know you said you expect the majority to be in 2012-13, but have you anticipated that you will have an increased workload for the rest of this financial year?

Mr O'Brien: Yes. If lodgements run at the level they are currently running at, we are expecting about 12,600 lodgements on the MRT for this year.

Senator CASH: For this year only or for the financial year?

Mr O'Brien: That is for the whole of this financial year. We have had about 6,300 to 31 December.

Senator CASH: And how does that compare with the previous year? It was up 21 per cent.

Mr O'Brien: Yes. It has been increasing year on year on the MRT. I can give you a bit of a flavour of that if you like.

Senator CASH: I also ask you how many you have budgeted for for the 2012-13 financial year.

Senator Lundy: I remind Senator Cash that questions relating to the forthcoming budget are cabinet matters and not appropriate for these officials.

Senator CASH: I would assume, however, that they have a figure in mind, given everything that we have been told this morning in the opening statement.

Senator Lundy: If they have a figure in mind, it is probably subject to the budget considerations, Senator Cash.

Senator CASH: Not in terms of the finances involved; in terms of the number of decisions. There is a loop like IMA. We have had that conversation before. We talked about

the five-year rolling average. That was scrapped as a result of the Malaysian solution; 750 were budgeted for last year. I am not asking for the actual financial side of things; I am asking for the number of applications you believe are going to be made.

Mr O'Brien: I see. As I said, we believe that this year we are going to have about 12,600 applications on the MRT. In terms of decisions, we are aiming to do 11,000 decisions and we think we are going to get there across both—

Senator CASH: How many do you anticipate actually being lodged in the next financial year? Will there be a further increase?

Mr Plowman: We are going to have about 16,000 lodgements this year in both tribunals. If the same increase applies that we have had in the past, we will certainly get more than 16,000 next year.

Senator CASH: Thank you. Why have the number of applications to both tribunals increased? Is it because departmental decision making is not as it should be? There have been a greater number of applications. Could you please provide me the categories?

Mr O'Brien: No, I do not think it has anything to do with departmental decision making. It is just that the total volume of decisions, particularly the student area, has increased. That has really been the area of most significant increase for us. As I said, they are running at 40 per cent. There are student visas, refusal decisions of the department and—

Senator CASH: And then they are overturned, though.

Mr O'Brien: student visa cancellation decisions. This year on student visa refusals, our set-aside rate is 32 per cent, which is broadly consistent, I must say. So far this year, the total set-aside rate on the MRT has been 37 per cent, which is broadly consistent. In fact, it is somewhat lower than it has been in other years on the MRT.

Senator CASH: In relation to the applications the RRT has received from applicants that arrive in Australia on student visas, what has been the outcome of those applications?

Mr O'Brien: We do not keep statistics on whether the applicant's original visa was a student visa or a visitor visa or whatever it might be.

Senator CASH: That has been the process for some time?

Mr O'Brien: Yes, that is right. We just do not keep those statistics. Anecdotally, for those of us who are making decisions in the area, it is probably correct that we are seeing more applicants before us on the RRT who were originally students, or who came here on a student visa, but, as to the quantum of that increase, we just do not have the statistical detail to answer that.

Senator CASH: One of the issues that has been raised is: has the tribunal seen any applications from same-sex couples using state certification of their union as evidence of their relationship?

Mr O'Brien: I would have to take that one on notice, Senator.

Senator CASH: In relation to the state certification of such a union, what weight does the tribunal actually give these certificates as evidence of a relationship?

Mr O'Brien: I cannot answer that at all. I just do not know. I am not aware of any such case.

Senator CASH: If you could take it on notice, that would be appreciated. Has the tribunal been provided with a copy of the Lavarch review?

Mr O'Brien: Not yet.

Senator CASH: When do you anticipate receiving a copy of it?

Mr O'Brien: Professor Lavarch was appointed by the minister, as you know, to particularly consider strategies for reducing our backlog and also to look at the question of how the transition to us of the irregular maritime arrival caseload might best happen. Professor Lavarch was appointed by the minister. It is a matter for the minister, I suggest, or the department, to answer that question.

Senator CASH: But you would expect to receive a copy of it?

Mr O'Brien: Yes—indeed.

Senator CASH: But you do not know at this stage when you anticipate—

Mr O'Brien: No, I am not sure.

Senator CASH: I assume you will also have input into it once you receive a copy of it. That will be the process?

Mr O'Brien: Yes. We have already had input into it. Professor Lavarch has consulted heavily with the tribunals, as he has with the department. We provided a significant amount of material to him.

Senator CASH: Do you know whether the Lavarch review has actually been completed yet?

Mr O'Brien: No I do not. In fact, since I have not seen anything from him in terms of a draft, I assume it is not completed yet.

Senator CASH: Thank you.

CHAIR: We have finished with this part of it. I thank the witnesses for their time.

[09:40]

CHAIR: We will now move to questions of the department, dealing with the cross-portfolio, corporate and general areas. Senator Cash, would you like to start?

Senator CASH: Yes, I would. On a point of clarification, is this the appropriate time to ask questions relating to the portfolio additional estimates statements?

CHAIR: Yes.

Mr Metcalfe: Hopefully, the whole hearing is about the portfolio additional estimate statements.

Senator CASH: Normally I get fobbed off and told I need to ask my questions in another portfolio outcome.

Mr Metcalfe: I think this is essentially general questions and cross-program areas. Issues relating to the detailed financial estimates obviously fall under the different outcomes. As is my usual practice, I would normally direct you to that outcome if there is a question relating to a particular outcome. It depends a bit on the question, Senator, as to where the best place is to answer it.

Senator CASH: Well, let us start. I am referring specifically here to the portfolio additional estimates statements that we have been provided with last week. The immigration budget will cost \$2.7 billion. This is \$1 billion more than the \$1.69 billion it cost in 2007-08. What is the primary cause of the increase in the department's costs over this period?

Mr Sheehan: Over the last three or four years there has been a range of different measures that the department has been funded for, but in the main it would relate to costs under outcome 4, which is to do with irregular maritime arrivals. There would be a range of different costs for different programs but, in the main, costs would come from increased boat arrivals under outcome 4.

Senator CASH: Offshore asylum seekers?

Mr Sheehan: Yes.

Senator CASH: Outcome 4, and in particular outcome 4.3, perhaps?

Mr Sheehan: That is correct.

Senator CASH: According to DIAC's annual reports, the number of permanent staff employed by DIAC between 2007 and 2011 as at 30 June has increased by 1,192 or 15 per cent. During the same period, the number of the highest paying senior executive service positions has increased by 24 per cent. The median for those positions in 2011 was \$180,000 to \$210,000 according to the last annual report. In net terms, where has the biggest increase in staff numbers and staff costs occurred?

Mr Metcalfe: The processing of irregular maritime arrivals, associated policy initiatives and the management of those issues generally have been the main reasons for increasing departmental staffing in those areas.

Senator CASH: In terms of the processing of irregular maritime arrivals, that is basically where we are seeing this 15 per cent increase?

Mr Metcalfe: Yes, and I use that term quite broadly in that it relates to offshore initiatives, to seek to prevent people from coming and to international cooperation. It is obviously the reception and processing of people in terms of any asylum claims, as well as the management of the detention or other arrangements while they are here.

Senator CASH: So, in summary, what you are saying is within reason, given that the cost of offshore asylum seeker management has increased by \$1 billion—from less than \$100 million to almost \$1.2 billion—this would effectively explain the difference?

Mr Metcalfe: It is not the complete answer, of course, but, certainly in terms of a broad statement, the answer is yes it is.

Senator CASH: Thank you very much.

Mr Sheehan: In terms of the service delivery arrangements, we have had variations in activity over the last three to four years where we would have staff at the frontline but the majority of the increase is related to detention related activity.

Senator CASH: In the 2008-09 budget there were no additional measures proposed for border control—then outcome 1.3—or offshore asylum seeker management, then 1.6, that related to an expected increase in irregular maritime arrivals. In 2009-10 the forward estimates for outcome 4.3, offshore asylum seeker management, was \$125 million; in 2009-10, \$113 million; in 2010-11, \$110 million; in 2011-12, \$107 million; and in 2012-13, \$454

million over the budget and forward estimates. The actual and forecast costs for the 2009-10 to 2012-13 period today is now in excess of \$3.5 billion, not including the \$440 million announced for building and expanding detention centres. If I go back to 2009-10, clearly at that time you were not expecting costs to increase.

Mr Sheehan: From memory, Senator—and we have had this conversation a number of times—at that point in time we would have been using the five-year rolling average for an estimate of our costs, because we do not project forward arrivals; we look backward. We have had this conversation—

Senator CASH: Yes, we have had this discussion—and we will have it later on again today, let me assure you.

Ms Wilson: The timing of the boat arrivals and the timing of the budget adjustments are also important things to remember. As you know, we can update the estimates in additional estimates—

Senator CASH: Yes, as we did last—

Ms Wilson: as well as the budget. The increase in arrivals happened towards the end of the 2010 calendar year. So the timing of when that went into the budget would also be a consideration.

Senator CASH: I did make a mistake—I said 2009-10. It was in 2008-09 there were no additional measures proposed for border control. And then you obviously see from 2009-10 onwards there was a slight increase and a slight decrease. But the when we get to 2012-13 there is the \$454 million over the budget and forward estimates. Was the government aware at the time they decided to abolish the Pacific solution and temporary protection visas that the result of those decisions could lead to an increase in asylum seeker management costs of more than \$1 billion per year?

Senator Lundy: Senator Cash, can I ask you whether you are foreshadowing a change in coalition policy, as your concern for the blowout in the budget implies, given if a policy change were to take place in the opposition and you were to support the Malaysian solution, many of these costs, we believe, could be contained?

Senator CASH: Senator Lundy, the bad news for you today is that I get to ask the questions—you do not.

Senator Lundy: And I am not sure where your questions are going, because the more you complain about the rising costs—

Senator CASH: Maybe Mr Metcalfe will answer this, seeing as this is Mr Metcalfe's last estimates and there is clearly a legacy here that needs to be defended. From 2008-09 when there were no additional measures proposed for border control to a changing of policy at the highest possible level to what we are now confronted with today following the release of this document last week—which I noticed Mr Shorten quite cutely did not raise in the parliament—we are now looking at \$454 million over the budget and forward estimates. My question is a simple one: in 2008-09, when it was decided to abolish the Pacific solution, did the government understand that as a result of the decisions this could lead to an increase in asylum seeker management costs of more than \$1 billion per year?

Senator Lundy: I think your question is appropriately directed to the government as it relates to policy. My response to you is that we have subsequently worked through the Bali process, to put in place the Malaysia solution and we believe that that would have an impact on the number of IMAs and therefore would address the feigned concern you have for the increase in the budget.

Senator CASH: It is not a feigned concern.

Senator Lundy: Your question is particularly directed to me representing the minister. I think I have made the point that, if you want to have a policy debate, the appropriate place is in the chamber. If you would like to have a debate with me across the table now, that is fine. But I suggest if you want to ask officers questions you stick to budget matters, not policy matters.

Senator CASH: This is well and truly a budget matter. Let us just read it out for the record again. In 2008-09 there were no additional measures proposed for border control or offshore asylum seeker management that related to an expected increase in irregular maritime arrivals. We then turn to 2009-10, the forward estimates for the Program 4.3—Offshore Asylum Seeker Management and we see a figure of \$125 million. We then turn to 2009-10 and we see a figure of \$113 million; in 2010-11, a figure of \$110 million; and in 2011-12 a figure of \$107 million. Then we get to this figure, which we can all see today, 2012-13, of \$454 million over the budget and forward estimates. I am not asking about policy. Mr Metcalfe, you know exactly what I am asking. With all due respect, I do not want to see you hung out to dry when you actually go to Europe. I will ask you yet again: was the government aware at the time that they decided to abolish the Pacific solution that that measure could result in what we now see, which is an absolute cost blow-out in the budget. They either were or were not aware. You are the departmental secretary.

Senator Lundy: If you go—

CHAIR: Senator Lundy, I now have the call as the chair. Senator Cash, I understand where your question is coming from. I just want to remind all parties here that that this is not a debating chamber; it is a time for question and answer. When you are questioning, I would ask you to consider the phrases that you use when you are addressing public servants, particularly senior public servants such as Mr Metcalfe. Mr Metcalfe has heard your question number of times and there will be an attempt to answer it, as best as the officers can.

Mr Metcalfe: As the minister has indicated, it is not really appropriate for me to indicate to this committee what was in the mind of the government in relation to—

Senator CASH: I am not asking what was in the mind of the government; I am asking whether or not the government was actually possessed of that knowledge.

Mr Metcalfe: It is not appropriate for me to understand what knowledge a minister or a government may have been in possession of several years ago. Of course, the issue cannot be treated in isolation. There were a number of things happening at the time, including ongoing work, which has continued for many years, of cooperation with our neighbours in this part of the world to prevent irregular travel. The suggestion that a decision was taken, knowing there would be an increase in the future or were ignorant of that, is not a yes or no answer. There is a far more complex story to be told in relation to it.

Senator CASH: You were the secretary at the time that this decision was made. Was the government advised that this could lead to the increase in costs that the taxpayer of Australia is now bearing?

Mr Metcalfe: It is not appropriate for me to discuss policy advice to government, whether it was this government or a previous government. So I politely say that it is a question that I cannot answer.

Senator CASH: Last November, the government released MYEFO, which reported that the net impact of not progressing offshore processing arrangements at this time on DIAC's budget over four years was \$197 million—I refer you to page 44 of the document. Is that correct?

Mr Sheehan: At that point in time that was the best estimate that we had.

Senator CASH: So is the answer yes or no?

Mr Sheehan: Yes.

Senator CASH: I refer now to the additional estimates. Not including the additional blowout for the 2010-11 financial year of \$116 million, the increase for the four years to 2014-15 is now \$756 million. This is \$559 million more—or almost three times more—than the \$197 million the Treasurer and Minister Bowen told taxpayers the bill would be for immigration when they released MYEFO in November last year. Mr Metcalfe, can you explain how these figures have blown out by almost \$560 million in just over two months?

Senator Lundy: Chair, can I just come in here to say that this is that fine line between directing things either to the outcome for specific questions about the financial details in the outcomes or to continue asking broad sorts of costs outcomes questions at this point, because I know that later on you will go through all the detailed financials of those specific outcomes as well.

Senator CASH: This is a general question at this point in time.

Senator Lundy: It is up to the chair. But I just do not want to go through a repetitive process throughout the day.

Senator CASH: I am not asking for the fine minutiae.

CHAIR: I think this is a general question about the figures that were produced in last week's document, as I understand it.

Mr Metcalfe: It is quite clearly an issue that fits within 4.3, so I am happy to answer it. I will answer it at some stage today.

Senator CASH: I would appreciate it. I will go through the minutiae of it with you in 4.3 later today. But, in general terms—and this is additional estimates—can you explain how the figures have blown out by almost \$560 million in just over two months?

Mr Sheehan: There are a range of funding offsets that are reported in the additional estimates process, obviously for the change in funding arrangements for the humanitarian program and as part of the Malaysia arrangement and also the offshore processing arrangements that were part of a centre that possibly would have been in Papua New Guinea or somewhere else. But those costs have now been included in the broader estimate for IMA related activity for the current year.

Senator CASH: Can we just take this slowly. Can you provide me with a breakdown—on notice if necessary—of the revised figure? We had a figure which you said at the time was correct—a net impact on the budget of \$197 million over four years—and that was in November 2011. We are now in February 2012 and we are looking at an increase for the four years to \$756 million. What I am looking for now is a breakdown of the revised figure and the additional \$559 million—more than three times what the Treasurer and Minister Bowen told the Australian taxpayer the cost would be.

Senator Lundy: Senator Cash, as you well know, if the opposition had supported the government's legislation, we would not have needed to make those adjustments, because those costs would not have been anticipated. Again, we come back to the point—

Senator CASH: The changes to the Malaysia solution were known in November.

Senator Lundy: that your question implies a scenario whereby, if the opposition had supported our solution, we would not have been faced with these budget blowouts.

Senator CASH: Why don't you ask your alliance partner, the Greens, to support your solution?

Senator Lundy: Whilst ever you ask questions about budget blowouts, you bear responsibility for those budget blowouts because you failed, as an opposition, to support the government's proposed Malaysia solution. Whilst ever you do that, you bear the responsibility of the cost blowouts that you are now raising at the Senate estimates. It is a bit of an own goal, don't you think?

Senator CASH: Is Mr Logan tweeting this at the moment; 'Opposition to blame'? Malaysia was abolished—

Mr Metcalfe: Mr Logan, as the national communications manager, does employ Twitter to provide information or factual material.

Senator CASH: He does.

Mr Metcalfe: He does not enter into any political debate and I regard that as quite an offensive comment.

Senator CASH: Malaysia was abolished in the November MYEFO, so what was new?

Mr Sheehan: We will attempt to get you a reconciliation and discuss some of that under 4.3 later today, if we can. Otherwise I will have to take that question on notice.

Senator CASH: If we could discuss it further in 4.3 that would be greatly appreciated.

Senator Lundy: Good idea.

Senator CASH: Can we confirm, though, that in the last 2½ months there has been a cost increase of more than \$559 million?

Mr Sheehan: I will need to check that and I will come back to you under program 4.3.

Senator CASH: That would be greatly appreciated. I now go to the additional estimates that show the largest increase in the costs for DIAC was in managing asylum seekers at program 4.3. This shows an increase of almost \$935 million, including the 2010-11 figures which include the netting off from the Malaysia savings in that output class. If we further deduct the Malaysia savings from the department's other costs of \$68 million, the total increase is \$866 million. On that basis, am I correct in saying that the most significant reason

for the increase in costs represented in the additional estimates relates to the blowout in offshore asylum-seeker management and related expenses?

Mr Sheehan: Yes, you are. I need to check those numbers. You said the net increase is \$866 million?

Senator CASH: The total increase is \$866 million.

Mr Sheehan: Between budget and the additional estimates process.

Senator CASH: Correct, but that has come from outcome 4.3, Offshore asylum seeker management and related expenses.

Mr Sheehan: That is approximately the same number I have. I will check that.

Mr Metcalfe: The simple answer is that, while the state of Australian law is that irregular maritime arrivals will be required to be processed in Australia, we can expect there to be a significant cost.

Senator CASH: The parliament is being asked for another \$330 million to cover these cost blowouts. Is that correct?

Ms Wilson: Yes.

Senator CASH: Thank you, Ms Wilson.

Mr Sheehan: Yes, for a range of new measures.

Senator CASH: That is, through Appropriation Bill (No. 3).

Mr Sheehan: Yes.

Senator CASH: That follows a request through the additional appropriation last year of \$295 million and a request the year before of approximately \$120 million?

Mr Sheehan: I do not recollect that number from the year before, but that sounds familiar. I can check those, but I think that goes to the conversations we have had a number of times about how we have estimated the costs under program 4.3.

Senator CASH: Yes, it does. The point that I am making here is that, under this government's border protection policies, the department would appear to be very used to coming to estimates and continually asking for more money. Would that be correct? The last two years, you would agree?

Mr Metcalfe: I think that we and the portfolio bring forward requests for additional estimates based upon activity levels.

Senator CASH: In other words, you are asking for more money.

Mr Metcalfe: Yes, we are and we have been talking about that for the last half hour because—

Senator CASH: Absolutely. The parliament is being asked for another \$330 million.

Mr Metcalfe: there is an ongoing level of activity in this area.

Senator CASH: An ongoing level of activity.

Senator Lundy: There is no news in that, Senator Cash, because we would not be faced with the increased cost if the opposition supported the government's bill.

Senator CASH: If you wanted the legislation, Senator Lundy, why did you not bring it to the parliament?

Senator Lundy: The opposition has continually indicated its opposition to those bills. When you indicate, as we discussed when the negotiations were first raised, that you will cooperate then we will bring forward the bills. If you are foreshadowing a change in policy, please, by all means, use this platform to do it because we would welcome the opposition's support for those bills.

Senator CASH: So you are not canvassing the support of the Independents and your Greens alliance partner, because the last time I checked there was more than one party in opposition.

Senator Lundy: Are you going to support the bill, Senator Cash?

CHAIR: Let us go back to asking questions.

Senator CASH: You did not bring it to the floor of the parliament. If you really believe it will work you should test it on the floor of the parliament.

CHAIR: Senator Cash, if you do not have any other questions I will go to Senator Furner.

Senator CASH: I have, Chair, thank you.

CHAIR: Let us get on with it then.

Senator CASH: I note that the government has increased the forward estimates for 2013-14 and 2014-15 by \$268 million and \$292 million respectively. Why has the government increased these estimates?

Mr Sheehan: It is based on the expected cost increase for the, in the main, IMA related activity.

Senator CASH: I am sorry, I cannot hear you very well. Could you answer that question again please?

Mr Sheehan: In the main, that estimate has been increased as a result of our forecast increased costs and activity associated with program 4.3.

Senator CASH: I note that the government expects that costs for asylum seekers in 2012-13, the year that I understand is ear-marked for the government to deliver a surplus, will fall by almost \$400 million. Why do you believe these costs will fall when they have been increasing every year under these current policies?

Mr Sheehan: Could you refer me to the page that you—

Senator CASH: I am looking at—

Mr Metcalfe: We are heavily into 4.3, I think.

Senator CASH: I am looking at the additional estimates statements; the budget portfolio. I have a photocopy of it.

Mr Sheehan: Is that on page 18, 4.3: 'Other changes in program specific parameters'?

Senator CASH: I have a photocopy of all of the collation.

Senator Lundy: Chair, I would suggest to you, with respect, that we are now into the detail of 4.3. We have a program to go through and unless the questions are cross-outcome related we ought to stick to that program as that is the expectation of the officials who are here waiting.

CHAIR: The first thing I will try to do is get Senator Cash to line up with the PBS what page she is talking about, so the officials know what she is talking about.

Mr Metcalfe: Another suggestion is that if Senator Cash has a working document we would be happy to take a copy and try to reconcile it with our material, but that would take a little time.

Senator CASH: It is in output 4.3, which includes forward estimates. Am I getting into too much detail here regarding output?

CHAIR: I think so. If we could just try to concentrate on the cross-portfolio and general department questions, at this stage, that would be useful.

Senator Lundy: I suggest that we get to 4.3 when we get to it.

Senator CASH: I go back to the additional appropriation of \$330 million that we spoke about. It is intended to cover not only a \$100 million blow-out for the 2011-12 financial year but also a further \$160 million blow-out for the 2010-11 financial year, and that will now cost \$879 million. When this output class was first defined in this way in the 2009-10 financial year, the projected expenditure was \$113.2 million so, effectively, you have an 800 per cent plus increase in just 2½ years, which one might say 15,000 people turning up irregularly may well do. Clearly the extra \$295 million that was asked for last year was not enough, so why have the additional expenses been put back into the 2010-11 figures?

Mr Sheehan: There are a couple of things about that. As part of the estimate process, there are accrued expenses and there is a cash process. We needed additional cash in the 2011-12 financial year to cover expenses that we had recognised in the 2010-11 financial year.

Senator CASH: So you had recognised the expenses?

Mr Sheehan: The expenses in the 2010-11 financial year, but we had not made the payments for those.

Senator CASH: Where were those expenses recognised?

Mr Sheehan: In our financial statements, in the annual report.

Senator CASH: Is this a normal process?

Mr Sheehan: Yes, it is, Senator.

Mr Metcalfe: In very broad layman's, non-accounting terms, let me help. Essentially, the forward estimates convey predictions of anticipated activity based upon known facts, but of course those facts can change. Then each year there is a reconciliation of actual expenditure. What Mr Sheehan has been talking about is that the actual expenditure for that period was greater than the estimated amount and, therefore—

Mr Sheehan: In cash terms.

Mr Metcalfe: In cash terms—more money had to be provided and that, therefore, results in the figures that you have been examining. Is that a reasonable layman's explanation?

Mr Sheehan: It is, Secretary.

Senator CASH: You may need to take this one on notice. I know that the government has increased their estimates of visa revenue, including \$277 million in 2013-14 and a similar

amount in 2014-15. Can you please provide a breakdown of the increase in this revenue by visa subclass?

Mr Sheehan: I do not have that with me. We could take that on notice.

Senator CASH: When were the changes to the fees announced?

Mr Sheehan: As part of the MYEFO process.

Senator CASH: What were the reasons for the changes?

Mr Vardos: I will take that question. As part of our transformation process, we commenced a project in 2010 reviewing the entire pricing structure of our visa subclasses. It is ongoing. The initial increases rolled out on 1 January and will continue into next year. It has been a fairly comprehensive review over a period of 18 months or so of our visa structure and the prices attached thereto.

Senator CASH: Thank you very much. I return to what we were discussing before in relation to the government expecting the costs for asylum seekers in 2012-13 to fall by almost \$400 million.

Ms Wilson: Senator, could you tell us which page you are looking at?

Senator CASH: Unfortunately, because this is a photocopy, this is quite difficult to do. I collated and put this together myself.

Senator Lundy: Perhaps, if you have a look at it some time leading up to 4.3, we could at least have questions and answers working from the same figures. I think that would be helpful.

Senator CASH: My staff have emailed me. It is page 51.

Senator Lundy: Again, Chair, this is financial detail relating to 4.3. I do not think it makes sense to skip all over the place like this. Estimates usually goes in an orderly fashion.

CHAIR: That is right, but we do sometimes have a bit of confusion about where certain questions fit into certain boxes. But we are concerned with cross-portfolio and general questions.

Senator CASH: I am happy to canvass this this afternoon if we are going to have the appropriate officers.

Mr Metcalfe: I expect that this afternoon you will, no doubt, take us through a range of questions about activities, operations, finances and whatever, and we will have the right people here for that. I think we are getting very much into the detail of 4.3 if we are at page 51 of the PAES document and table 2.3.4.

Senator CASH: In relation to the general questions, I am trying to understand this: we have an overall budget blowout and we have confirmed today that the reason is basically in relation to asylum seekers under outcome 4.3. Then, if you go to page 51 and look at 2012-13 there is a decrease. Why is there that decrease?

Mr Sheehan: Because of the change in the delivery arrangements for some of our detention cohort. Under the new arrangement we will not only have clients in held detention, they will also be on community detention and in the general public.

Senator CASH: So they have moved out of program 4.3, and they will now, presumably, appear in another program.

Mr Metcalfe: What Mr Sheehan is saying is that, further to the government announcements that I mentioned in my opening statement, we expect a couple of things. Firstly, given the state of Australian law as interpreted by the High Court we can expect people to continue to arrive. Therefore we have to make provision for that. However, the government has indicated that it will be looking to have a high proportion of people not in held detention facilities but in community facilities and on bridging visas, and that is basically a less expensive way of managing immigration processing than high security detention centres.

Senator CASH: Is it a less expensive way? Is that a proven fact or is that something that we are assuming? It is a little bit like the five-year rolling average in policy assumptions in relation to the Malaysian solution. We abandoned the five-year rolling average based on the impact of the Malaysian solution. It was assumed that IMAs would reduce to 750. Is that also an assumed position—that it will be less expensive?

Mr Metcalfe: Again, we are deep into 4.3 territory here but I am happy for Mr Sheehan and his colleagues to discuss the make-up of the estimates and the assumptions. In the same way that in the Malaysia arrangement the reduction in costs was not an assumption, we have a historical precedent and that occurred in 2001-02 with offshore processing. Your question is: can we confidently assume that not keeping people in high security detention centres is more expensive than having people on bridging visas? The answer is, yes, there is a good evidence-based reason for those costs to be different. Again, this is an area I thought we would be discussing in detail this afternoon.

Senator CASH: What is that evidence-based reason?

Ms Wilson: I think this has been discussed at estimates before. There is not the capital overhead involved in establishing centres. Community detention was announced by the government in October 2010. The secretary explained the numbers we have had in detention in the community since that period. We are doing some detailed work on the costing models for community detention, bridging visas, and held detention. As at 31 December, total expenditure for IMAs totalled \$591 million for 2011-12, and out of that \$50.3 million was for community detention. We have to try to match apples with apples so we are trying to break it down by the services and how many people, because people move into community detention for varying periods before they get a bridging visa. So we are trying to do that analysis, but that gives you a picture of the costs at 31 December.

Senator CASH: Just in relation to the expense program for 4.3, are the costs of community detention found in that outcome, or are they found elsewhere?

Ms Wilson: They are in the same outcome.

Mr Metcalfe: Program 4.3 is the management of what are described as 'offshore asylum seekers', people who arrive as irregular maritime arrivals, their processing and the cost of their management whether it is in high security detention facilities, other facilities, community detention or on bridging visas.

Senator Lundy: In other words, outcome 4.3.

Senator CASH: Thank you. I just want to make sure because there is such a dramatic decrease in what has been marked as the year of the surplus. I just want to work through why

that is so. Mr Metcalfe, you said that, in relation to the impact of the Malaysia policy, you had a benchmark to work to and that—

Mr Metcalfe: Of course, we know intimately what happened in 2001-02.

Senator CASH: Offshore processing reduced—

Mr Metcalfe: As we discussed last time, it was a combination of policies and international circumstances that collectively meant that we went from a large number of IMAs to a very, very small number.

Senator CASH: Going back, you said there was a body of evidence showing that community detention was less expensive than keeping people in detention centres. And, I note, Ms Wilson, you said that the department is currently doing work around that. It is the body of evidence that I am interested in.

Mr Metcalfe: Community detention was introduced by Senator Vanstone in 2005 but it was primarily used for compliance cases and overstay cases. So the department has had six or seven years experience operating community detention and, of course, we have had many years of managing people in the community on bridging visas. So those are familiar programs. It is true, though, that the use of community detention has built up very substantially in the last 18 months as it has been applied to IMAs. I am very confident in saying that we have a historical evidence base. What Ms Wilson was talking about is the fact that we are always updating our figures and assumptions to make sure they are up to date and contemporaneous. Very happy to talk about that under 4.3.

Senator CASH: In terms of bridging visas, do the costs of bridging visas include costs to state governments, or is it separate? Are they just a Commonwealth cost and not a state government cost?

Mr Metcalfe: These are Commonwealth costs.

Senator CASH: Ms Wilson, what work are you currently doing in relation to the costs of community detention?

Ms Wilson: We are trying to make a comparison between the different detention environments: community detention, held detention and bridging visas. As you know, bridging visas are relatively new so we are modelling clients who have been through those over varying periods and looking at the costs, the fixed costs and the variable costs because, depending on servicing, those costs will change as well. As I think we have explained to you, in the held detention model there are lots of variables, and trying to get an average cost is very difficult. In the fixed detention facilities the average cost varies based on centre, occupancy, duration and services. So we are trying to juggle a few things to get a comparison about whether the service model in the community is cheaper than held detention.

Senator CASH: So you currently do not have that comparison.

Ms Wilson: Not on the numbers because, as the secretary explained, we have not had such significant numbers in community detention before.

Senator CASH: In other words, there could be a cost increase.

Mr Metcalfe: No, there will not be a cost increase. We know the cost of building detention centres and the capital cost associated with them—we know that Curtin cost \$121 million. That is an established fact. We know that North West Point cost \$400 million. That is

an established fact. We know that there are expenses in maintaining people in the community—adverse instance issues, for example—there are also probably more intangible costs with held detention like the well-documented evidence of mental health deterioration and associated servicing costs and indeed over time large-scale damages costs against the Commonwealth that we confidently expect will be less for people held in less restrictive forms of detention.

Senator CASH: With all due respect, Mr Metcalfe, you and I had this discussion when you decided to abandon the five-year rolling average, and you came up with the figure of 750 for the IMA arrivals and we are now at what—5,000 or 6,000?

Mr Metcalfe: That was in the context—

Senator CASH: And, again, you confidently expressed to this committee that that figure would prove to be correct. It has been proven to be so wrong it is not funny.

Mr Metcalfe: There has been one big thing happen in between those two things, Senators, and that is a decision of the High Court of Australia which rendered ineffective the law that was passed by this parliament in 2001.

Senator Lundy: And before you attempt to cast further aspersions on the secretary about his ability to provide you information to the best of his ability, I remind you that the opposition have had the opportunity to support the government's legislation and they have chosen not to and therefore bear some responsibility for the increase in costs in this area. So it does not matter how many times you say it, it does not change the fact that, if the opposition supported the government's legislation for the Malaysia solution, we would not be in the situation we are in with these costs.

Senator CASH: Is that the talking point for today?

CHAIR: Let's go back to questions.

Senator CASH: Senator Lundy, with all due respect, I am not casting aspersions on Mr Metcalfe.

Senator Lundy: It certainly sounded like it, which is why I felt compelled to intervene.

Senator CASH: You were not here, unfortunately, for these discussions; it was Senator Carr. Mr Metcalfe has previously before this committee, as a result of a policy decision, indicated that a change in the way the IMAs are calculated was correct because of the impact of that policy decision. That is now incorrect. The figure that we were given is completely, totally and utterly incorrect. My point here is that, whilst you predict that there will be an up to \$400 million decrease, there is no guarantee at all that, based on previous costs of community detention, that will indeed occur, particularly in light of Ms Wilson's evidence that we have not seen numbers like this before and that the department are currently undertaking this analysis because they do not fully understand the costs of community detention versus those in mandatory detention.

Senator Lundy: It seems to me that you are trying to make an insubstantial point a substantial one, I think.

Senator CASH: This is a very substantial point.

Senator Lundy: Your reflections on the department are, I think, unfair and inappropriate. They are providing you with information to the best of their ability. They do it persistently

and consistently at every estimates process, and I suggest, with you due respect, you show them some respect.

CHAIR: On a related matter, Senator Furner has a question that relates to this. So I am going to get him to ask this question and then we will break for morning tea.

Senator FURNER: Thanks, Chair. Mr Metcalfe, we have been talking about the IMAs and the cost increases as a result of the portfolio additional estimates. Would it be true to suggest that, had we an effective deterrent like the Malaysia solution in place, the 2011-12 budget would have been healthier and we would not have been talking about increased costs now?

Mr Metcalfe: Senator, as you know, Senator Cash asked me a lot of questions about this some time ago. It is not just my view but also the department's and other experts' clear view that that would have had a very high chance of success and would have made a very substantial difference to the number of boat people coming to Australia and the number of people dying as a result. As a result, the figures in the budget papers would have been very different.

Proceedings suspended from 10:28 to 10:45

CHAIR: The Senate Legal and Constitutional Legislation Committee examination of additional budget estimates will recommence in the area of portfolio overview.

Senator CASH: Some issues have been raised in relation to page 51 of the additional estimates statements, as we were canvassing prior to the break. I would like to confirm that it is the evidence of the department that it is or has been departmental practice to alter the method for calculating the forward estimates where there is a major shift in policy or change in the policy landscape, as demonstrated in the estimates provided in the 2011-12 budget and the variations now made in MYEFO and the additional estimates. Specifically, I am referring to the impact of the Malaysia solution on the number of IMAs and what we canvassed prior to the break in relation to total expenses for program 4.3—the impact of community detention on the budget.

Mr Sheehan: We have had the conversation about the five-year rolling average—

Senator CASH: So the answer to my question is yes?

Mr Sheehan: Yes.

Mr Metcalfe: I think the answer is yes.

Senator CASH: Thank you, Mr Metcalfe. When did this become the practice of the department?

Mr Metcalfe: The department has always sought to adjust the forward estimates in terms of changes to circumstances. That is time immemorial.

Senator CASH: Changes to circumstances or changes to—

Mr Metcalfe: Changes to policy, changes to operational activity—that is what the whole issue of forward budgeting in estimates is about.

Senator CASH: Who made the decision to do it in relation to the impact of the Malaysia solution and the assumed impact of community detention?

Mr Metcalfe: That was a budget decision made by the government.

Senator CASH: Was the minister advised of that decision?

Mr Metcalfe: Of course.

Senator CASH: Were any discussions held with the minister or his advisers about the change in the practice prior to these decisions?

Mr Metcalfe: Yes. As is the usual practice in all budget matters, there were detailed discussions involving the department and the minister and the government.

Senator CASH: Who initiated these discussions?

Mr Metcalfe: It would usually be an iterative process, as these things usually are. In the lead-up to a budget or an additional estimates process, the department works on these issues. We work with the department of finance, the Prime Minister's department and other relevant departments. The process, which has gone on for decades, is that ultimately the minister comes forward with a submission to cabinet in relation to his budget request.

Senator CASH: Can I reconfirm, so I am not verballing you in anyway, that the impact of the Malaysia solution was considered to be a major policy shift that resulted in a change to the way IMAs had previously been estimated?

Mr Metcalfe: Yes.

Senator CASH: In terms of the impact of community detention, this is also regarded as a major policy shift and, as such, the forward estimates now recognise that there will be a potential decrease.

Mr Metcalfe: Yes. As I said earlier, largely that is because of the reduction in the need for capital costs.

Ms Wilson: To clarify, it is community detention and bridging visas.

Senator CASH: Yes, but they are major changes and, as such, the forward estimates have been revised.

Mr Metcalfe: Noting that those arrangements were in place but, essentially, they have been expanded because of the ongoing number of people who will be subject to those arrangements.

Senator CASH: In relation to the way the department does business and the fact that the forward estimates are changed when there is a major policy decision, following the election of the Rudd government in 2007, you were advised of the government policy decision to abolish the Pacific solution and temporary protection visas. Was this considered by the department to be a major policy shift?

Mr Metcalfe: It was clearly a significant policy shift because it would be a different way of managing any arrivals that did occur. It is very much a matter of historical record that the government came to office with that policy position.

Senator CASH: Would it be considered a major policy shift with a similar impact to, say, the Malaysia solution?

Mr Metcalfe: I suppose you are getting me into subjective issues here, Senator. Clearly, the decision that any arrivals would not be transferred to Nauru was a significant policy shift, and there were other policy shifts at the time. Clearly, the decision that any offshore arrivals

should be transferred to Malaysia was a significant policy announcement. I think that is a matter of historical record.

Senator CASH: Was advice provided to the government of the cost implications of implementing that decision? I am not asking for the content of the advice.

Mr Metcalfe: Which decision, Senator?

Senator CASH: Abolishing the Pacific solution and temporary protection visas.

Mr Metcalfe: The government had a clear policy position. As I have said on earlier occasions, I cannot go into issues that were the subject of policy advice—

Senator CASH: I do not want you to, merely whether or not—

Mr Metcalfe: With the government having that policy position, the department worked with the government to establish the resultant budget, which would have been the 2008-09 budget, I assume, from memory.

Senator CASH: What were the cost implications for the department of that decision to abolish the Pacific solution?

Mr Metcalfe: There were some costs associated with the closing of Nauru. I would have to go back and check those particular costs.

Senator CASH: The department changed the estimates as a result of the perceived impact of the Malaysia solution. You have changed the forward estimates as a result of the perceived impact of community detention and bridging visas, but you did not change the estimates in relation to the decision to abolish the Pacific solution and temporary protection visas. You did not think that it would make a difference?

Mr Metcalfe: The department does not change estimates; that is a matter for the government. This is a government document and the department is involved in its preparation. It is important to ensure that the ownership is with the government of the day. The practice through the last decade had been to make a nominal allocation of funding for boat arrivals. We had very high figures in the late nineties and in the early part of 2000. The numbers then dropped back dramatically and, thus, there was no provision for anything other than a nominal amount, but the practice always was that there would need to be some form of estimation. You and I have discussed that at great length, as to crystal ball gazing and whatever. The question you are asking me is in fact an issue of historical fact and I invite you to examine the budget documents from that time.

Senator CASH: No—the question I am asking is: you have confirmed that, as a result of the impact of the Malaysia solution, you revised down the number of IMAs that would be coming to Australia and you abandoned five-year rolling average—

Mr Metcalfe: The government was clearly confident that its policy measure would be effective.

Senator CASH: In relation to the community detention impact on the total expenses for program 4.3, that has been revised down on the basis of an assumed impact of community detention and bridging visas, but, in relation to the abolition of the Pacific solution and temporary protection visas, which, like the two previous policies, represented a major policy change, there was no impact on the additional estimates?

Mr Metcalfe: That is a historical fact—yes.

Senator CASH: So you did not think that would actually make a difference?

Mr Metcalfe: I am not going into what I thought or did not think, Senator. I think it is inappropriate as to what my thoughts might have been or what policy advice I might have been given. I am neither confirming nor denying anything in that space; I am just saying that it is a historical record as to what occurred and what decisions were taken by government.

Senator CASH: What have been the cost implications of the decision to abolish the Pacific solution on your department over the last four years, given that in your evidence today you have stated that the primary reason the department's costs have blown out by a billion dollars a year is because of the increase in boat arrivals?

Senator Lundy: Hang on! Could I just say that there is an implication in that statement that is absolutely challenged and contested.

Senator CASH: What was that?

Senator Lundy: You relate the departure from the Pacific solution as somehow directly causal for the increases we are facing now. In fact, the cost increases we are now facing are a direct result not of that but of the opposition's failure to support the government's Malaysia solution. To conflate the two issues is misleading and mischievous, and you know it.

Senator CASH: Have you spoken to Senator Cameron and Senator Marshall in relation to the left of the Labor Party's position on the Malaysia solution?

CHAIR: Senator Cash, let us just stay out of asking those questions.

Senator CASH: My understanding is that they do not want to support it.

Senator Lundy: Can I suggest that we do not conflate the—

Senator CASH: Bring it to the floor of the House and let us just see who supports it. If you are so confident—

CHAIR: Senator Cash—

Senator CASH: This has been raised as an issue and it has been put to me that this is an excuse for the increase in numbers. If the government are so sure of the Malaysia solution, why don't they bring it to the floor of the House of Representatives?

Senator PRATT: Because you would vote it down.

Senator CASH: As for the left of the Labor Party—

CHAIR: This is not a debating chamber. Senator Cash, I am going to call you to order.

Senator Lundy: Just to make the point: the government has consistently offered to meet with the opposition—

Senator CASH: Three days before Christmas.

Senator Lundy: We have put forward several proposals seeking the opposition's engagement and support of the Malaysia solution. They are failing—

Senator PRATT: Be it on your head.

Senator CASH: Why is it that you can malign the opposition on this but you cannot align the left of the Labor Party and you cannot partner with your alliance in the Greens?

CHAIR: Order! I am going to go to Senator Furner if you do not have questions here. We are going to go back to cross-portfolio questions or I will go to Senator Furner, if you have finished.

Senator Lundy: Madam Chair, no implied political point-scoring when asking officials questions would be greatly appreciated and in order with the standing orders of these committees.

Senator CASH: Mr Metcalfe, if I could return to the cost implications of the government's decision to abolish the Pacific solution, your evidence today was that the primary reason for the department's costs and the reason for their blow-out by \$1 billion a year is the increase in boat arrivals.

Senator Lundy: That is the same question that we have just had the argument about, Chair.

Senator CASH: I am just confirming Mr Metcalfe's evidence.

Mr Metcalfe: I certainly have not given any evidence that the abandonment of the Pacific solution—

Senator CASH: No. I am saying that your evidence today was that you have stated the primary reason for the department's cost blow-out by \$1 billion a year is the increase in boat arrivals. That was your evidence.

Mr Metcalfe: To be clear, what I have said is that, certainly, the lion's share of the additional funding requirement for the department has been because of the increase in irregular maritime arrivals. But I have been very careful not to underpin that with a causal—

Senator CASH: I am merely pointing to a period in time, and that period in time would be the abolition of the Pacific solution.

Mr Metcalfe: It is a matter of record—

Senator CASH: What have been the cost implications for your department since that point in time?

Senator Lundy: Again, the implication of Senator Cash's questions is to conflate these issues of historical fact and costs with the current situation. It is misleading—

Senator CASH: I am asking about over the last four years.

Senator Lundy: and I ask her to at least put her question in such a way that she is not trying to make the officer respond to a policy-related question.

Senator CASH: A point in time would happen to be when the government made the decision to abolish the Pacific solution. There was one policy in place; the government decided to abolish that policy. What I am interested in is Mr Metcalfe giving me a brief summary in relation to the costs from that point in time. What have been the implications for the department? Are they reflected in the estimates that we have been through?

Mr Metcalfe: They have been reflected in the annual reports for those years.

Senator CASH: What about the estimates though?

Mr Metcalfe: The estimates are provided for—

Senator CASH: Are they constantly revised up?

Mr Metcalfe: They are provided for in the budget and in the additional estimates documents. You can read that as easily as I can. I can get some people to spend some time finding it or—

Senator CASH: They have been revised up on almost every occasion.

Mr Metcalfe: They have been revised up and down and back up again.

Senator CASH: And back up again. So we are at the back up again.

Senator Lundy: Hang on a sec. Five minutes ago we were discussing revising down because of a change in approach. At least be consistent, Senator Cash.

Senator CASH: Mr Metcalfe said that they went back down and back up again. I was merely confirming his evidence that the situation currently is the back up again. We have revised it up by \$866 million? How much is the government asking for?

Mr Metcalfe: I think we have been through that.

Mr Sheehan: That is the number that you quoted—

Senator CASH: What number did we agree it was up there?

CHAIR: It will be the amount the department is asking for.

Senator CASH: An additional \$330 million. So we are at the back up again situation. I was merely confirming Mr Metcalfe's evidence.

Mr Metcalfe: I am still waiting for a question, Senator.

Senator CASH: What major policy shifts occurred between 2007-08 and 2010-11, other than what we have discussed today?

Mr Metcalfe: I could answer the question, but it is a matter of historical record. I do not know if you want to use your time—

Senator CASH: Are there any in addition to the ones I announced: the abolition of the Pacific solution, the Malaysia solution and community detention have been major policy shifts.

Mr Metcalfe: You forgot about temporary protection visas.

Senator CASH: Or the abolition of the Pacific solution and temporary protection visas.

Mr Metcalfe: As you know from briefings you have received, there are several schools of thought in relation to the effect of those policies. Of course, this cannot be taken from a myopically Australia based approach only. We do live in a real world and we live in a world where wars happen and refugees move from place to place, where the Sri Lankan civil war came to a pretty bloody end and there was a large movement of refugees from Afghanistan. So any proper discussion about these issues has to include international people-flows as well. It is noteworthy that the United Nations High Commissioner for Refugees is here at this moment and we have been talking about the extraordinary pressures faced by Europe at the moment—tens of thousands of people landing there.

Senator CASH: The costs since the 2008-09 budgets have increased from less than \$500 million over the forward estimates to more than \$3 billion based on the current figures. Again I ask you, what was the impact on your department of the changes in policy of the Rudd and Gillard governments? Was it an increase in costs?

Senator Lundy: Senator Cash, you are trying to extract from the official some comment on policy. That is inappropriate.

Senator CASH: I am asking what the impact on the department was. Was it an increase in costs?

Senator Lundy: You know that, because you ask questions—

Senator CASH: Thank you. There was an impact on costs. That is all I need to know.

Senator Lundy: Please let me finish my answer. Every estimates you come in here and we trawl the detail of the budget documents.

Senator CASH: Absolutely, because they are constantly revised up or down, so we are back again.

Senator Lundy: I ask you to cease trying to put the officials in a position where you are asking them to comment on policy. It is inappropriate; it is outside of the standing orders of the estimates committee, as you well know.

Senator CASH: If I return to Senator Furner's question prior to morning tea, I would have thought that was a comment on policy.

Mr Metcalfe: I can answer Senator Cash's question very easily by referring her to the annual reports for the years since 2007-08 through to 2010-11. I can either have that information extracted for her or she could ask her staff to do it for her.

Senator CASH: Perhaps you could take that on notice and ask your staff to extract it.

Senator FURNER: I have some questions around media access and accountability. Mr Metcalfe, as you would be aware, there have been some media reports around the department's new media access policy. Is it true that part of the department's efforts is to provide greater access and demystify the immigration detention environment to increase the likelihood of accurate, informed and objective reporting?

Mr Metcalfe: Yes. As you know, our long practice over many, many years has been that there should be no general media access to detention centres. We have sought to provide some new guidelines that strike a balance between the privacy of the individuals, proper public interest matters such as the opportunity for asylum seekers to either deliberately or inadvertently create sur place claims—enhance their refugee claims, together with the proper interest and accountability to the Australian community. That is a process that is underway. We are having some discussions with the Press Council in relation to those guidelines. A number of media organisations have taken advantage of that, and I think we have seen some reporting in recent times. Some have concerns about what they believe is a form of censorship. I simply say that compared to what we had in the past, which is no access, some access is probably a good thing. We will continue to try and develop the right balance between privacy, public interest issues, such as sur place and other claims, together with appropriate openness. That is an ongoing area, but I am glad we have been able to make some progress.

Senator FURNER: Have the media consultations you have had with those outlets been seen as a positive move? Have they welcomed the opportunity to be involved in those consultations?

Mr Metcalfe: I think the general approach has been constructive, but I am not going to gild the lily. Some media organisations have had concerns about what they perceive as censorship or restrictions upon their movement, particularly undertakings that we ask them to abide by about being accompanied by departmental officers, not filming people's faces and so on. Some have editorialised about that. So clearly it is not an area where everyone is happy with what we are doing. Some believe we need to do more. But I do believe there has been a general spirit, from our perspective, of trying to move in a more open direction while at the same time balancing those very real personal and public interest issues. I know there have been some discussions involving our national communications manager and the Press Council, and they have certainly been undertaken in a constructive and positive manner.

Senator FURNER: Has the minister expressed any preference in respect to media access in the policy at all?

Ms Wilson: The policy evolved from an initial policy which was developed in 2001. As I think I explained at last estimates, we had a policy in place, but the changes in arrival numbers and the increased focus on detention centres led us to relook at that to create a broader policy which, as the secretary said, would balance the privacy of clients with the need for the community to know. So it is not like we had no policy in place previously. The minister, as I explained at last estimates, was consulted on a close-to-final version of that draft, but the department was doing the work over an extended period of time.

Senator FURNER: Would you explain in some detail what the policy was that was in place in 2001?

Ms Wilson: The policy included requiring deeds for visits to detention centres. It included things like seeking the department's approval for vision and pictures. It included privacy conditions and that all material be cleared before it was made public.

Senator FURNER: So no doubt there would have been a deed that was arranged as a result of the consultations?

Ms Wilson: That is exactly right. They were individual deeds, whereas what we have gone to is more of a model deed that everyone can have a look at on the website so they are aware of the balances before they approach us about a visit.

Senator FURNER: Are there caveats associated with that deed in respect of what sort of things might be able to be aired and in respect of contact and those sorts of issues?

Ms Wilson: Sorry—are you talking about the current policy?

Senator FURNER: That is right, the deed.

Ms Wilson: There are inclusions such as that there is not to be individual contact or individual interviews. It allows broad visits, and we reserve the right to clear all the relevant material prior to airing.

Senator FURNER: So that is in the deed that is in place at present?

Ms Wilson: That is right.

Mr Metcalfe: Senator, I should add that, of course, while there has been focus recently on media access to facilities, the facilities are relatively open in the sense that people who have a reason to go there go there often. I see a weekly report of visits to detention centres. There are numerous visits by the Red Cross, and Amnesty International has representatives currently

going through detention centres. A whole range of independent bodies make visits, and we very much welcome and value their advice. The Ombudsman, the human rights commission and of course parliamentary committees make visits as well. The media access policy is very much about trying to balance issues of openness and transparency with the privacy of individuals and also with the important public policy issue of ensuring that, advertently or inadvertently, a visit does not result in either an asylum seeker or their family being put at risk because they are known to be seeking asylum in Australia.

Senator FURNER: Would you be able to provide to the committee some indication of how many media outlets might have signed onto the new deed at this stage?

Mr Metcalfe: We can take that on notice and possibly come back to you today.

Senator FURNER: Thank you. Finally, have any specific media tours been conducted by the department, where have they occurred and who has participated?

Ms Wilson: Senator, I can answer your previous question. About 25 journalists, photographers and camera and sound operators have signed the agreement to date, and there is a lot more discussion taking place. In terms of visits to centres, there was a tour to the Maribyrnong Immigration Detention Centre on 6 December and a tour to the Inverbrackie Alternative Place of Detention on 14 December. A *Daily Telegraph* journalist and photographer were taken to Wickham Point on 16 December, and an SBS crew visited Villawood on 24 January. There was also a visit to Villawood on 19 October. There is a series being planned for the first six months of this year which is still being finalised.

Senator BOYCE: Mr Metcalfe, you would be aware that the Joint Standing Committee on Migration presented its report *Enabling Australia: Inquiry into the migration treatment of disability* on 21 June 2010. Was the department asked to develop a response to that report?

Dr Southern: Yes, we have been working on the government's response.

Senator BOYCE: Have you provided that to the minister?

Dr Southern: We have been working with the minister and his office to finalise the response, yes.

Senator BOYCE: So 20 months down the track it is not finalised—is that what you are saying?

Dr Southern: We are getting very close, Senator. You would recall the report had a substantial series of recommendations. They were quite complex. We have been working through them and we are very close.

Senator PRATT: I have some questions regarding visa pricing. Is this the correct place?

Mr Metcalfe: Taking a consistent approach with Senator Cash where we said a lot of the detail was in 4.3, Senator Pratt a lot of the detail on visa pricing is in 1.1. It depends on whether they are general questions.

CHAIR: We will do them in 1.1. Are there any other general questions?

Senator HUMPHRIES: Could I ask about the dollar amount the department will be giving up as part of the increase in the efficiency dividend.

Ms Wilson: In terms of the efficiency dividend, it is about \$19 million a year from 2013 going across the forward estimates. That is the capital efficiency dividend. The departmental efficiency dividend is about \$28.1, \$28.4, \$28.9 across the forward estimates.

Senator HUMPHRIES: That is about \$47 million altogether?

Ms Wilson: About \$47 million a year.

Senator HUMPHRIES: This is the raising of the dividend, the extra amount that the—

Mr Metcalfe: The efficiency dividend. Ms Wilson, are those figures inclusive of the additional dividend or just the additional dividend?

Ms Wilson: That is the new measures.

Mr Sheehan: The additional 2½ per cent efficiency dividend.

Senator HUMPHRIES: Can you give me an idea how the department intends to manage that additional impost?

Mr Metcalfe: Essentially we are going through a very detailed internal budgeting process at the moment. Our budget, as you know, is large and made up of several components. For example, much of the funding relating to irregular maritime arrivals that Senator Cash has been talking about is funded on the so-called quarantine basis. Effectively, we are funded for what we spend and if the efficiency dividend does not apply to that, it does not require us to seek efficiencies in contracts, cut services or reduce the number of meals or anything like that—far from it.

The department is also funded on an activity based formula. Essentially, depending on the number of visa applications we receive and are decided and so on, we are funded for those on a widget basis. So it is not just a question of us cutting services and making cutting decisions because in fact we will be cutting our own budget.

Senator HUMPHRIES: Understood.

Mr Metcalfe: This saving will largely need to come from areas which are not funded in that way. Clearly in relation to capital, we are a large consumer of information technology and we are looking very carefully at our technology spend. In relation to the administered costs we will be going through all of our expenses. We have a large property expense, we have a large staff cost expense, and travel and other areas. So there is not a definitive answer on, 'We will be cutting this,' but effectively will be looking across all of those to ensure that, as we have in recent years, we continue to live within our budget.

Senator HUMPHRIES: Are you examining the possibility of staff reductions?

Mr Metcalfe: We are. We are certainly not looking at the issue of involuntary redundancies. Like all big organisations there is a significant turnover—we have almost 8,000 staff. And, of course, because of the ongoing nature of activity levels such as irregular maritime arrivals servicing there is always the potential to move staff from an area that is losing funding to an area that has high activity levels. So there is the ability to transfer resources as well. I should properly say that of course we will be looking at staffing budgets and that could impact on some areas. That is a process we are going through right now.

Senator HUMPHRIES: You would surely say, with 8,000 staff and those administered expenses separately quarantined, that it is almost inevitable that you are going to look at some reduction in staffing?

Mr Metcalfe: Yes, and that is exactly what we are doing. Exactly where and how we achieve that—most likely through not filling vacancies and therefore slowing down on recruitment. I am concerned that we continue to recruit. Like many agencies, our average median age is getting older, so we need to continue to plan for the future by continuing to recruit at the graduate level. We have continued to recruit, but we will be looking at the ability to fill vacancies or to shift resources from one area to another area as part of our overall strategy.

Senator HUMPHRIES: The \$19 million for capital is separate and quarantined from the \$28 million for recurrent expenses? So you would not be able to make a saving of \$30 million with capital?

Mr Metcalfe: No.

Senator HUMPHRIES: All right, thank you very much.

CHAIR: We are going on to outcome 1 but we are going to deal with the Office of Migration Agents Registration Authority first in outcome 1. We have finished cross-portfolio and general questions.

Office of the Migration Agents Registration Authority

[11:17]

Mr Metcalfe: Chair, I think Ms Sykes may have a short opening statement which will lay down a lot of the statistics and other things, if the committee was happy to take that.

CHAIR: Yes, all right. Good morning and welcome, Ms Sykes and Mr Wood. Ms Sykes, I invite you to make your opening statement.

Ms Sykes: Thank you members and chair of the committee. I would like to update you on progress with the Office of the Migration Agents Registration Authority since we last appeared at Senate estimates. In terms of our operations, at the end of December 2011 there were 4,560 registered migration agents in the profession. This is a two per cent increase, or 95 agents, since 30 June 2011 when there were 4,465. It also follows a slight decrease over the previous year. In the period 2010-11 there was a decrease of 0.4 per cent, which is a fairly small decrease. By comparison in 2009-10 there was an increase of nine per cent—4,097 as at 30 June 2009 and 4,482 at 30 June 2010.

In the six months from 1 July 2011 to 31 December 2011 the number of non-commercial registered agents increased by six per cent to 294 compared to 277. In the same period, registrations by Australian legal practitioners increased to 1,332 as of 31 December 2011. That is about a 5.4 per cent, or 68-person, increase compared with 1,264 legal practitioners registered as migration agents at the end of June 2011.

In the six months from 1 July 2011 to 31 December 2011, four applications for registration were refused along with two further applications refused in January 2012. Appeals to the AAT have been lodged in respect of two of these decisions, and no determination has yet been made by the AAT. This compares to the eight applications for registration which were refused in the year 2010-11. Of these, four appeals were made to the AAT and the outcome was that two appeals were withdrawn, one decision was dismissed and one decision was remitted for consideration by the Office of the MARA. That consideration is still underway.

In terms of complaints, in the six months from 1 July 2011 to 31 December 2011, a total of 247 complaints were received or re-opened by the Office of the MARA. These related to 171 current or former agents. In the year July 2010 to June 2011, the Office of the MARA received a total of 519 complaints relating to 300 current or former registered migration agents. Concerns relating to the standard of professional conduct demonstrated by agents—part 2 of the migration agents code of conduct—remains the primary issue of the complaints received, with about 74.5 per cent of all complaints being under that part of the code. The second-highest concern related to disputes regarding agents' obligations. That represented 6.6 per cent of issues raised.

In the six months from July 2011 to December 2011, five agents were sanctioned on the basis of 12 complaints. One agent had their registration cancelled, three agents were barred and one agent was suspended for three years. Since then two further agents have been sanctioned. One was cancelled and one was given a caution.

In the year 2010-2011, 41 complaints resulted in eight agents being sanctioned. Three agents had their registration cancelled for five years, three former agents were each barred for the maximum period of five years, one agent was suspended for two years and another agent was cautioned. One agent initially launched an appeal with the AAT but withdrew this appeal in August 2011.

Professional development continues to be a major part of our work and, in the six months from July 2011 to December 2011, a total of 87 continuing professional development activity applications were received and 108 applications were approved. At the end of December 2011, there were 466 approved activities, which were offered by 52 providers.

I reported previously on a number of proposed reforms to continuing professional development. From our point of view, these have gone smoothly and have resulted in greater activity choices for agents. In addition to existing activities, agents can now claim CPD points by completing new activities like mentoring, workshops and conferences. The reforms also acknowledge and recognise continuing professional development completed by accredited specialists in immigration law by removing the need for them to undertake additional continuing professional development to meet registration requirements. We have been revising our registration application forms in order to streamline the process. These forms are now available on the website and incorporate features such as no longer requiring a statutory declaration. That has been replaced with a declaration made by the agent. Most attachments will no longer need to be supplied as certified copies.

The new English-language requirement for repeat registration was announced in June 2011. The requirements will be either IELTS 7 general with a minimum score of 6.5 in each subtest or the internet based Test of English as a Foreign Language—TOEFL—with an overall score of 100 and a minimum score of 22 in each subtest. There will also be specified exemptions based on education in English-speaking countries. These requirements will come into effect on 1 January 2014.

One of the reforms we have put in place is a standard ethical framework which was developed for use by migration agents. This is supported by a free and confidential counselling service called Ethi-Call, which is provided by the St James Ethics Centre. The framework will provide better guidance to agents to both identify and manage ethical dilemmas and conflicts of interest. CPD providers can also use the framework and associated

toolkit to deliver ethics and professional-practice training. I also add that I was very proud that our secretary awarded an Australia Day medal to the team that put together the ethics framework. We have had very good, positive feedback about that framework.

Another innovation has been the development of a practice-ready program. This is designed as a practical and highly-interactive program to equip registered migration agents in their first year with the relevant skills and knowledge to successfully practice as a registered migration agent. It includes passing an assessment task. Persons who lodge an application for initial registration on or after 1 September 2011 must complete the practice-ready program within 12 months prior to lodging their first repeat application for registration as a migration agent. People who lodge their initial registration before 1 September 2011 are also strongly encouraged to complete this course. People who hold a practising certificate or accountants who are members of a recognised professional body are not required to complete the PRP.

I have previously updated this committee on our communication strategy, and we continue to develop the communication strategy. We developed a translated booklet in March 2011 to enhance our communication with ethnic communities. I am pleased to report that the translated booklet, titled, 'Your rights: tips on using a registered migration agent', has been very well received, with close to 6,000 printed copies distributed. We have made the translated booklet available in a total of 24 community languages online at the website of the Office of the MARA; and, in the six months from July to December 2011, the translated booklet was downloaded about 3,400 times. The translated booklet provided the basis for an ethnic media strategy to extend our reach to these communities. A translated editorial piece and information from the booklet were placed in key community newspapers. This resulted in exposure across 11 community groups, and the targeted newspapers published the editorial piece on approximately 85 per cent of available opportunities.

More recently, in November 2011, a YouTube video titled 'Using a registered migration agent' was made available in eight community languages. To date there have been 5,800 downloads of that YouTube video.

Senator Lundy: Very impressive.

Ms Sykes: Thank you. We are also making that video available through other means so that people who do not have access to the internet can access it through provision of USB sticks and other means.

Another part of our stakeholder engagement plan has been the delivery of presentations to a number of bodies, including migrant resource centres and education providers. Through involvement in these seminars we are improving the awareness of the regulatory framework for migration assistance that will benefit their clients and constituents.

Finally I want to acknowledge the role of our advisory board. Since it commenced the advisory board has met 11 times and has made a valuable contribution in taking forward our program of reform. I would like to thank each member, in particular the former chairman, Mr Robert Cornall AO, and Mr Stirling Henry, who were unavailable for reappointment to the advisory board. I would like to take this opportunity to record my sincere appreciation for the hard work that both Mr Cornall and Mr Henry have done. I would also like to welcome the new chair, Ms Helen Williams AO, and the new member, Mr Ray Brown. I would also like to record my thanks to all of the staff in the Office of the MARA. I know they have worked very

hard over the last year to deliver the program. I am happy to answer any questions of the committee.

CHAIR: Thank you.

Senator FURNER: Thank you for that detailed summary of what the MARA has been doing over the last period of time. I have some basic questions. Firstly, if someone wished to become an agent, what is the process?

Ms Sykes: A registration application needs to be made. The requirements for registration do cover a number of things. Firstly, if you do not hold a current Australian practising certificate, you would need to have completed the graduate certificate in immigration law and procedure and to have passed the prescribed exam. We also have an English-language requirement of IELTS for those who did not study in an English-language school. Everybody needs to pass a fit-and-proper test, so you would need to get police clearance. You would also need to provide a statement saying that you have not been bankrupt or had any other appeals against you. You would also need to have professional indemnity insurance and have access to a library of immigration legal information.

Senator FURNER: So you go through all those processes and then finally get registered. What is the follow-on accreditation or requirement in respect of training that particular agent? Are there any areas that MARA gets involved in after the person has been registered?

Ms Sykes: There are. Every year registered migration agents have to reregister. One of the fundamental things for that reregistration is the completion of continuing professional development. Those requirements vary slightly. For example, for people who hold a current Australian practising certificate who also do compulsory legal education we recognise four points; so, instead of the 10 points of CPD that everyone else has to do, they do six points. We have also recently recognised the additional education that people who are accredited specialists in immigration law and practice have, so they do not have to do additional continuing professional development. Everybody else has to do 10 points. If you were to register today, you would have to do eight of those points as part of a practice-ready program, which is an intensive program to basically give you all of the tools that you need to run a migration agent business. We also require you to confirm that you have not had any criminal convictions, criminal proceedings, been bankrupt in the past year et cetera. So we also look at fit and proper.

Senator FURNER: I am not certain whether I picked it up in your introduction, but how many migration agents are currently in operation? How would that compare with the previous years?

Ms Sykes: At 31 December there were 4,560 registered migration agents. I am not sure how far you want me to go back, but at June 2011 there were 4,465. So from June to December there has been an increase of two per cent. In the year 2010-11, we went from 4,482 to 4,465, which was a 0.4 per cent decrease, but in the four years before that there had been an increase of around eight to nine per cent each year. Essentially the trend has been that over five years there was a significant increase in the number of registered migration agents. There was then a minor decrease, and there has now been a minor increase. So we are not sure if the numbers are plateauing or this is just a change due to other factors.

Senator FURNER: Is there any reason behind that?

Ms Sykes: It is difficult to tell. We do know that there was an increase in applications just prior to us increasing the English-language requirement for initial registration, so there may have been a bit of a lag in that. The requirement to complete that English language may have meant that some people who wanted to become agents who would not meet that requirement did not apply. There have also been a number of changes to the policy settings within a number of visa programs that may have changed people's interest in applying, and then also of course there was the global financial crisis. That may have affected the numbers. That may only be a temporary flattening, which has been seen in previous years.

Senator FURNER: I understand there is a non-fee-charging agent.

Ms Sykes: That is correct.

Senator FURNER: Would you be able to give me some idea of how that person is certified or deemed to be that particular type of agent?

Ms Sykes: Under the current regulations, anyone who does not charge a fee falls into that category and that attracts a lower registration fee.

Senator FURNER: How would they go about becoming a non-charging agent? Is there something they apply for in order to be in that particular category?

Ms Sykes: That is correct.

Senator FURNER: Do you monitor any further registration around that particular agent at all?

Ms Sykes: Again, every year they have to apply for re-registration and in that process they would be asked to provide any information about any fees they charged or any changes to their circumstances.

Mr Wood: We do monitor if information does come to us that indicates a person is no longer engaged as a non-commercial or not-for-profit agent. We write to that agent. We normally ring them up before we send a letter and talk to them about their circumstances. If their circumstances do change, there is a pro rata fee that applies for the remainder of the year based on the commercial rate.

Senator FURNER: I imagine there are certain professions that are in the business of being registered agents. Are there any lawyers engaged as agents at all?

Ms Sykes: A significant number of agents have an Australian practising certificate. As at 31 December 2011, there were 1,332 registered migration agents who had an Australian practising certificate. There are a number of other registered migration agents who are lawyers. We do not separately record that because what is of interest to us specifically is whether they have an Australian practising certificate or not, because that attracts slightly different continuing professional development requirements.

Senator FURNER: So, out of the 1,332 you have identified, do you notice any difference with respect to their engagement with migration cases compared to the other, say, 4,560 that you have on the books?

Ms Sykes: Nothing significant.

Senator FURNER: I think you covered off everything else in the introduction. Thank you very much.

CHAIR: Ms Sykes and Mr Wood, thank you very much for your attendance today. That leads us to consideration of outcome 1. That was outcome 1.3, but we will go to outcome 1.

Senator CASH: Whilst the relevant officers come forward, I have some questions in relation to the Shafia family and the Canadian jury case where the husband and the wife have been found guilty of murdering the three daughters and the first wife. Media reports state that they had spent some time in Australia. When would it be appropriate to raise those questions?

Mr Metcalfe: It would probably be appropriate under, I imagine, outcome 3, but I would preface that by saying that we would need to be very careful if we were talking about individuals, for privacy reasons. I do not know whether in the break if there is any—

Senator CASH: If there is any information you can give me. They have just been found guilty in Canada of cold-blooded, shameful murders—honour killings, basically—of the three daughters and, I understand, the first wife. A number of the media reports have referred to the fact that they moved to Canada in 2007 after living in Pakistan, Australia and Dubai. My questions, really, are: how did they come to Australia, what visas did they use et cetera.

Mr Metcalfe: I doubt if we have any information to hand given it is a fairly contemporaneous matter and the Australian connection would appear to be incidental given that they are not here now. If we can provide you with anything, we will do that under outcome 3—

Senator CASH: Thank you, otherwise I will put the questions on notice.

Mr Metcalfe: but I suspect we will probably say that it is best if we take it on notice just so that we can work our way through any legal or privacy issues associated with that. Thank you for raising it.

Senator CASH: I want to turn to partner visas. How many applications for prospective marriage visas subclass 300 were made in each of the years 2007-08, 2008-09, 2009-10, 2010-11 and this year to date?

Dr Southern: We do have some figures with us which we will try to pull together. I know that over the last five years we have had in the order of 33,000 prospective visa applications, but I think we would have to take the actual breakdown by year on notice.

Senator CASH: Would you also take on notice in which posts the applications were made, how many applications were approved and visas granted by post in 2010 and the year to date?

Dr Southern: Yes. Actually, I believe we have pulled together quite a lot of that statistical information for the—

Senator CASH: The marriage visa inquiry?

Dr Southern: That is right.

Senator CASH: Was there any fraud detected in any applications for this visa category in the last five financial years?

Dr Southern: I think we have answered a parliamentary question on notice in relation to this. A proportion of prospective marriage visas are refused on a number of different grounds, but we find it difficult to report statistically on the breakdown of the reasons. It is not something that is recorded in our systems. It is in each of our cases and the case notes for each file, but plucking it out as a report is something that we cannot do automatically.

Mr Kukoc: We know that for prospective marriage visas we have around a nine per cent rejection of the applications and fraud is only one of the factors which may cause the rejection of visas, so it is likely to be much lower than the total rejection rate of nine per cent. But, as Deputy Secretary Southern said, our system does not record fraud as such as part of the rejection—

Senator CASH: If it does not record fraud, what does it record?

Mr Kukoc: That it does not meet the various criteria for the prospective marriage visa. It is usually very difficult to distinguish whether some activity was fraudulent or just a non-genuine relationship, if you know what I mean. We can definitely say that fraudulent activities might be bogus documents or fraudulent evidence being provided, but in a number of cases it is very difficult to distinguish between what is really a fraudulent activity and what is something that may lead to a non-genuine relationship or other relevant criteria that mean that the relationship may not be genuine.

Senator CASH: In the event the visa is not approved or bogus documentation or fraud is found by the department, what happens to the perpetrator?

Mr Kukoc: If we find any evidence of fraud, we have the power to cancel visas. There are powers under the legislation to act in the case of fraudulent activity.

Senator CASH: How many visas were cancelled or refused over the last five years as a result of the detection of fraud?

Mr Kukoc: As Deputy Secretary Southern said, our system does not record so it is very difficult to report these percentages unless we manually examine each file.

Senator CASH: Has that always been the case, that you do not record on your systems that fraud is the reason the visa is cancelled?

Mr Metcalfe: It would be reported on the individual case but the officer is saying that it is not aggregated.

Senator CASH: There is no collation.

Mr Metcalfe: We can interrogate the data to say that I think nine per cent have been refused for failing to meet a criteria and some of those cases would go on to merits review with the MRT and there may well be an overturn of that decision. There are a number of statutory criteria that applicants and sponsors have to meet. So we are capturing the numbers refused but on the aspect of fraud we would have to go into individual cases and that would be a very substantial task.

Senator CASH: How many visas were cancelled or refused for the last five years in relation to all of the grounds on which they can be cancelled or refused?

Mr Metcalfe: I think Dr Southern said about nine per cent.

Senator CASH: You can provide the breakdown on notice?

Dr Southern: Yes.

Senator CASH: In each of the years from 2007-08 through to the year to date, do you have information at hand as to how many of the applicants under the age of 18 years arrived in Australia and subsequently married the proposer?

Dr Southern: I know I have the statistics to hand in relation to the inquiry into the marriage visa the other day. If we do not have them here we can provide them later today or take them on notice.

Senator CASH: Is it the usual case that you do find that there are males or females under the age of 18 coming in on a prospective partner visa?

Dr Southern: Of the number I gave over the last five years of 34,000 prospective marriage visas, 227 were from applicants under the age of 18. From memory, of those a very high percentage went on to marry their partner. It was a very low percentage who did not go on to marry.

Senator CASH: Do you know the age of the youngest person out of those 227?

Dr Southern: Seventeen years old.

Mr Metcalfe: One of the requirements is that the applicant has to be 18 years and the marriage has to be validly entered into in Australia.

Dr Southern: And the visa is valid for only nine months after grant. Really the youngest a prospective marriage visa applicant could be would be 17 years and three months, unless there is a court order in Australia allowing—

Senator CASH: To actually come here.

Dr Southern: That is right.

Senator CASH: How many have failed to marry their proposer and have returned to their country of residence?

Dr Southern: That might be a figure we could come back to you with after lunch.

Senator CASH: How many of those applicants have arrived and subsequently applied for another type of visa?

Dr Southern: We do have that figure.

Senator CASH: Can you bring that back to me and what kind of visa?

Dr Southern: Yes.

Senator CASH: How many have applied for protection visas and how many have made an application or been granted permanent residency under the domestic violence provisions of the Migration Act?

Dr Southern: We will get those figures for you.

Mr Kukoc: In terms of the domestic violence provisions are you asking about the prospective marriage visa applicants who have applied?

Senator CASH: Exactly.

Mr Kukoc: At the moment, prospective marriage visa holders do not have access to domestic violence provisions unless they are subsequently married and have a partner provisional visa.

Senator CASH: That is what I am referring to. Thank you. In relation to applicants being granted partner visas on the basis of being in a de facto relationship with an Australian citizen, how many applications have been received from people using documentation from the

New South Wales Relationships Register or other state registration authorities for same-sex couples as a way of meeting the cohabitation or other genuineness criteria?

Dr Southern: We will have to take that one on notice.

Senator CASH: Is it possible to use such registration provided by state governments to circumvent existing migration criteria?

Dr Southern: No, Senator.

Senator CASH: Why do you say, 'No'?

Dr Southern: It is on the basis of the relationship and the credibility of the relationship. If there is a registration of the relationship—my colleague Mr Kukoc can correct me if I am wrong—that then streams the applicants into being considered against a requirement that the relationship has to be established. I think it is for a 12 month period rather than for two years.

Mr Metcalfe: There needs to be a genuine ongoing relationship. We will correct this on notice if I am wrong but my working assumption would be that such a registration would assist in establishing that there was such a relationship but it would not be determinative, and that our officers would be looking at a variety of material, as we have done since time immemorial, to indicate that the people are in a long-term and ongoing relationship. That can include shared addresses, correspondence and so on and so forth.

Senator CASH: Could you take this on notice. If you say that the state registration is not solely used to prove the relationship, can I ask you to let the committee know: what are the requirements from a Commonwealth level, other than just the state registration that would acknowledge that a relationship exists?

Dr Southern: Yes.

Senator PRATT: Supplementary to that would be the differences between couples that have access to marriage versus those who go through a state registration process. It would be my understanding that many of the other criteria are the same because it is hard to prove, just by virtue of either getting married or registering, that your relationship is genuine.

Mr Metcalfe: The key aspect is the fact that it needs to be a mutual commitment to a shared life to the exclusion of others and that the relationship is genuine and continuing and that they live together and do not live separately and apart on a permanent basis. Such a certificate would assist in that understanding but I would not regard it as being conclusive. It would be part of an overall set of information provided to us.

Senator PRATT: In the same way as a marriage certificate is.

Mr Metcalfe: In the same way that marriages do and whether it is a same-sex or opposite-sex partnership.

Senator CASH: In relation to the applications that we are referring to, how many applications using such registration have been received by over-stayers or other visa holders to support protection visa applications?

Dr Southern: We will certainly take that one on notice. I suspect we run into the issue, again, of how much information is easily drawn from the systems and how much is recorded on the case files in relation to a particular case? But we will certainly take that on notice.

Senator CASH: I am assuming that that would only be a small amount in terms of visa over-stayers who then subsequently—

Dr Southern: That is correct. We can certainly pull out the number of protection visa applications received from people who were over-stayers. Then we could work back to what kind of visa that person had.

Senator CASH: I would ask also: what are the countries of origin of these applicants?

Mr Metcalfe: An additional consideration is that a protection visa would not be granted on the basis of a relationship. It is granted on the basis that the person has a well founded fear of persecution.

Senator CASH: Correct.

Mr Metcalfe: Were there to be an argument that the person was being persecuted because of their sexuality that would only be one piece of evidence. So it is probably a very small area that we are getting into.

Dr Southern: In fact, Mr Morrison in the other chamber asked a question on notice in relation to partner visas which went to the number of applicants for a protection visa after they had overstayed.

Senator CASH: Do you have the answer?

Dr Southern: We have the numbers and we have the breakdown over a number of years by country of citizenship. I can certainly provide that—

Senator CASH: Perhaps you could table that.

Dr Southern: I can table that for you—yes.

Mr Metcalfe: Do you have the question number there for *Hansard* purposes?

Dr Southern: The total number is over a five-year period. It was question No. 753 from the House. It was tabled on 9 February this year. We recorded in our answer that, if it were provided evidence of registration of a relationship, it would be on file, recorded in the case notes, but it is not recorded in such a way that we can easily pull it out in relation to those who did have a registration of their relationship under the relevant law of the state or territory on the basis of a same-sex relationship. It is the same issue of where the data is held and how it is aggregated.

Mr Metcalfe: There is not a data field in our case notes that would be specifically for that and that would mean that you could run a program across it and pick it out. You would have to go into each case note and that would be quite a major task.

Senator CASH: In the interests of time, I will move on to enterprise migration agreements. I refer to the answer given to question No. SE11/0175, which states that, to date, no formal submissions to access an enterprise migration agreement have been received. Is it still the case that no formal submissions to access an EMA have been received?

Mr Kukoc: So far, we have received one submission. There is currently discussion around a number of other projects and project owners that may lodge an application for an enterprise migration agreement in the coming months.

Senator CASH: In relation to the one submission that you have received, when was that lodged?

Mr Kukoc: I may need to take this question on notice. I do not have the exact date here.

Senator CASH: Was it this year, was it—

Mr Kukoc: It was late last year. It was actually on 23 December 2011.

Senator CASH: When you say you were in discussions, how many do you anticipate may well be lodged?

Mr Kukoc: It is difficult to estimate, but we believe between 17 and 37 projects are likely to be eligible for an enterprise migration agreement. Of course, this depends on the final investment decisions that relate to these projects and relevant state approvals. We are in discussion with a number of these projects, but we just cannot speculate at this stage how many of them will finalise the investment decision, get all the approvals and lodge the application for the negotiations and finally end up with a enterprise migration agreement.

Senator CASH: In relation to the one submission that you received on 23 December, what consultation with the unions has been gone through?

Mr Kukoc: Consultation with unions and other stakeholders is a fundamental requirement of any enterprise migration agreement program, negotiation and discussion. Of course, the aim of this consultation is to ensure that the minister has all relevant information and views before him before the minister considers the need for the enterprise migration agreement and employment of a range of semiskilled workers and skilled workers. To enable stakeholders to comment on the enterprise migration agreement proposal, they must be provided with information on the number of semiskilled workers sought under the enterprise migration agreement and what proportion of the workforce they will represent. All parties to the consultation will be expected to maintain confidentiality. We would expect the project owner—and we would request this as part of the negotiation—to inform all the relevant stakeholders of this information and make this information available to the minister before the minister makes a final decision.

Senator CASH: What is the exact role of the union, then, in this project? As we have one that is actually on foot, what is the exact role of the union?

Mr Kukoc: As with any other interested stakeholder that may have certain views, interest and information in relation to the project's employment conditions or labour demands, unions are relevant stakeholders in the negotiation process. But unions are just one of the key stakeholders in the negotiation process.

Senator CASH: Does the union have the power of veto in relation to an enterprise migration agreement?

Mr Kukoc: No, unions are key stakeholders in this process, but they need to have the necessary information around the EMA proposals so that they can comment and put forward to the minister their views and any other information they may hold, and then the minister considers the EMA proposal, the departmental analysis and the views of all stakeholders in the process before making his final decision. The ultimate decision is with the Minister for Immigration and Citizenship.

Senator CASH: Is the company in question provided with the union's comments on the proposed enterprise migration agreement or are they merely given to the minister and the minister is the one who sees them? Given that the employer has to provide the union with

certain information, does the employer get the opportunity to see what the union's response is?

Mr Kukoc: I may need to take this question on notice in terms of the exact process. My understanding of the process is that the project owner who proposes the enterprise migration agreement needs to provide the relevant information to the unions, obtain their views and include the views of the unions in their proposal to the minister. This is very similar to what happens under any other labour agreement. I can confirm the exact process in answer to your question on notice.

Senator CASH: When do you anticipate that the final submission will go to the minister? Is there an anticipated date?

Mr Kukoc: I do not have the date at the moment, but when the department has gathered all the information necessary, I usually go back to the EMA project owner for further information if the proposal is not complete. Following that, subject to all information being gathered, I provide advice and the submission to the minister for his decision. I cannot speculate at what stage this will happen, but we will deal with this in the most efficient manner.

Senator CASH: Do you have a time frame in which you would like to see this process turned around for the ministers to make the final decision? Are there certain benchmarks?

Mr Kukoc: I think the government expectation is that we, as the department, do our best to make this turnaround time as short as possible, provided that we can gather all the information and provide adequate advice to the government. But the government clearly said that this is a priority for the government and it would expect the department to be very efficient in the process.

Dr Southern: We do have a certain standard for once we have a final decision—so, after the consultations have been undertaken, and the enterprise lodges its final submission—a service standard of three months.

Senator CASH: At the end of that, if the service standard is not met and a decision is not made, what happens? Is there an automatic presumption of an internal migration agreement?

Dr Southern: No, as with many service standards, this is what we are intending to do and the advice that we would provide to an enterprise so that they have a bit of certainty around what they can expect. Within the department we would make every effort possible to achieve the service standard, but there is no automatic presumption one way or the other at the end of that period.

Mr Kukoc: We intend to report on the service standards and how we perform under the service standards, as we do under all visa subclasses and labour agreements.

Senator CASH: You stated that to date you have received the one submission. However, you believe that 17 to 37 projects may be eligible for an EMA and you are in discussions with some companies. Why do you believe that you have only received one submission to date?

Mr Kukoc: Could you repeat that question please?

Senator CASH: Why do you believe that you have only received one submission for an EMA to date?

Mr Kukoc: That is what our records show.

Senator CASH: Is there a reason behind that? Is there a rationale behind—

Mr Kukoc: I think the government issued guidelines around the enterprise migration agreements that there was a need for a very comprehensive consultation with the stakeholders. This is a completely new and innovative approach through bringing temporary, skilled migrants into the country and that is the reason a lot of stakeholders expressed initial interest in the process; however, they were seeking more information from the department about the process. As part of the process related to any investment project, once they apply they need to get information documentation to make the application successful. That is in the interests of all project owners who may apply for enterprise migration agreements. That is the reason that by the end of last year we had one submission. But, as I said, we expect many more to come along in the coming months.

Senator CASH: We can follow that up at budget estimates. When you said that project owners sought information about the process, were you able to then put together something that you have been able to hand out to project owners?

Mr Kukoc: Yes. We issued very comprehensive guidelines on how to make a submission under the enterprise migration agreement. That was on 2 September 2011. Those guidelines were informed by a very comprehensive early consultation process in mid 2011, so we knew what information and guidelines project owners might need before we finally put together the guidelines, got them approved by the minister and released them on 2 September 2011. I think the guidelines and a template are on our website and provide very comprehensive information on how to make an application for an enterprise migration agreement.

Dr Southern: Just to follow up your earlier question, Senator, about other prospective projects which may seek to enter an enterprise migration agreement, we are currently working very closely with five other enterprises on agreements, in preparing their submissions to us.

Senator CASH: Obviously, we will have questions at budget estimates surrounding the progress of those. One of the issues that have been raised with me by a number of stakeholders is the requirement for a minimal peak workforce. My understanding is that currently it is 1,500 workers.

Mr Kukoc: Yes, that is correct.

Senator CASH: One of the issues that have been raised in relation to the introduction of EMAs is reducing that to 1,000. Has the department received any feedback from stakeholders that this would be an appropriate way to go, post the introduction of EMAs, to reduce the peak workforce from 1,500 to 1,000?

Mr Kukoc: We have had some feedback from some stakeholders in the resource sector that they would like to see a slightly reduced element of peak workforce from the current 1,500. But I think that needs to be considered as part of good policy and good administration in the context of other competing priorities in other projects. If you have too many projects qualifying for—

Senator CASH: An EMA or a particular—

Mr Kukoc: priority processing, for streamlining, for high focus of efficiencies from the department, then the whole idea of streamlining for key priority projects is watered down. You know the old saying that too many priorities mean no priorities. That is why we need to focus on key priorities in this resource sector, noting that all other projects that are on a

smaller scale will still have access to very efficient 457 processing that we are currently doing under 457 temporary skilled visas. They will have access to the five-day turnaround time for completed applications that were announced for the resource sector as part of the overall government response to the labour market needs. They will also have access to other labour agreements. So there are a number of other avenues for smaller scale projects to access effective processing.

The enterprise migration agreements were always meant to be for large-scale projects of priority in the sector. You always need to draw the line somewhere. The issue is that, if that threshold is too low, you will have too many projects qualifying and the whole idea of prioritising will be brought into question.

Senator CASH: I suppose the only comment I would make there is that unfortunately you have had only one application to date, which might indicate that certain changes have to be made. Are you able to provide the committee—without, obviously, identifying those who have made the concerns—with the feedback you have received in relation to potentially lowering the workforce and why lowering the workforce from 1,500 to 1,000 would be an appropriate way to go?

Mr Kukoc: We can take that question on notice.

Senator CASH: Thank you. Can I now refer to the answer given to question on notice SE11/0178, which states:

Of the 40 Labour Agreement requests seeking concessions ... that were approved between 1 November 2010 and 31 October 2011, all requested a skills concession and 20 requested an English concession.

Has the department ascertained whether these 40 requests for skills concessions would have been required under the old points test?

Mr Kukoc: I am not certain. I am a bit confused about the link between the points test and the concessions under the 457. Would you mind clarifying this question?

Senator CASH: My understanding is that it would be easier under the old system—

Dr Southern: Would this be the earlier 457 arrangements, rather than the points test?

Senator CASH: Yes. Have you managed to have a look at that?

Mr Kukoc: Labour agreements—and this is publically available information—have been put in place to deal with situations where the standard 457 sponsorship program cannot meet the needs of employers. Usually we are talking about employers that have a specific, unique need from the labour market—they may need semi-skilled workers that are not currently listed under the allowed 457 occupations or specific concessions in terms of the English language.

However, all these specific, unique needs need to be tested as part of the overall labour market examination, and this was the reason and the rationale for introducing the labour agreement program. I believe there was also an issue under the previous arrangements, where many of the visa holders in those semi-skilled and lower skilled occupations, people with a lower level of English, were subject to exploitation, effectively bringing into question the integrity of the whole 457 program. That was the reason for the 2008-09 reforms, which excluded some lower skilled occupations from the standard 457 program. Even at the economic peak in 2007-08 we had only a few hundred to 1,000 people coming under these

categories in 457 compared to tens of thousands. The 457 category was always meant to be a high-skill temporary migration scheme.

Senator CASH: When you look at the requests for concessions that were made, half of them were in relation to the English requirement. This is something that is constantly being raised by stakeholder groups. Is the department doing anything to address the concerns of industry with respect to the IELTS requirements?

Mr Kukoc: In general or in terms of the 457—

Senator CASH: In relation to both. They are constantly raised.

Mr Kukoc: My experience with feedback from the industry is that this is not constantly raised. It is raised on some occasions but, as I mentioned previously, there was a policy rationale regarding the level of English-language proficiency amongst 457 visa holders. We are effectively dealing with this through the labour agreements. If any concessions are required we consider them as part of the labour agreements. But we really need to be convinced that any lowering of the standards of the English language proficiency will not lead to the abuse of the program or bring into question the integrity of that program. Hopefully, that will not lead to—we believe it has proven not to so far—the incidents of exploitation that we have seen in the past.

Senator CASH: Without compromising anybody's identity, in relation to the feedback that you have received on the English-language requirements are you able to provide the committee with the concerns that have been raised by industry?

Mr Kukoc: We can provide a summary of the feedback that raises this question. But I think I have already provided that summary. The feedback from some affected employers in some instances—I must say that this is not something that prevails amongst the sponsors of 457—would be that they need specific skills that are not available in Australia and the people who they would like to bring onshore to perform those tasks may not need the level of English that is currently prescribed under the 457. The level of five is prescribed under the 2005 components of 457. Some employers say that while prospective employees from overseas may need speaking skills or listening skills they may not need the written skills in abattoirs or in some other sectors of the economy. That is a general summary of some concerns—

Senator CASH: If you could—

Mr Kukoc: I will find that and answer your question on notice.

Senator CASH: Thank you. I now very briefly turn to regional migration agreements. At the budget estimates hearing in May 2011 the committee was advised that there was no definition of a region, no timeframe for negotiation of an agreement, no start date for the negotiation of RMAs and plans to consult with various groups. Where are we currently at in relation to RMAs?

Mr Kukoc: Similar to what we have done with the enterprise migration agreements, we have conducted a range of consultations throughout Australia—throughout the regions of Australia—particularly focusing on the north-west, Northern Territory and Queensland. Based on these consultations and the feedback from regions and employers who may be using these future regional migration schemes we have put together draft guidelines for the minister to approve. This is now before the minister and we expect the guidelines to be approved and

announced very soon. We will also be commencing negotiations with a number of regions that are likely to qualify under the regional migration agreement.

Note that regional migration agreements have only recently been announced—it was an innovative scheme announced in the last budget—

Senator CASH: Correct.

Mr Kukoc: and we needed some time to consult with the stakeholders, for the purpose of making sure that our guidelines and the processes meet the needs of the regional areas and employers in the regional areas.

Senator CASH: When you say that the draft guidelines are with the minister for approval, on what date did you provide them to the minister?

Mr Kukoc: I will need to take this question on notice. I do not have the date with me, but it was—

Senator CASH: Was it last year or this year?

Mr Kukoc: recent. It was very recent. I will need to take this question on notice but it was very recently because we finished the consultation late last year.

Senator CASH: You said that you were consulting with a number of regions. That indicates to me that we now have a definition of a region. What is the definition of a region for a regional migration agreement?

Mr Kukoc: The regional agreement will target regional areas with populations of less than 150,000. There would also need to be evidence of very strong employment growth leading to labour and skills shortages, very low current unemployment and a very high participation rate. So a number of factors will be taken into account before we decide on whether a project will meet the regional migration agreement.

Senator CASH: Is there an actual written definition of a 'region'?

Mr Kukoc: The definition is that the population is less than 150,000, employment growth is very strong, the unemployment rate is very low and the participation rate is very high. So we are looking at targeting—

Senator CASH: Are there specific figures, though, in relation to 'very low unemployment rate'? What is a 'very low unemployment rate'?

Mr Kukoc: Much lower than the national unemployment rate.

Senator CASH: Are there any guidelines surrounding what you have just said?

Mr Metcalfe: You are trying to ask if there is a particular percentage?

Senator CASH: Exactly. I can understand 'a population less than 150,000'; that is obvious. But a 'very low unemployment rate'—is that objective, subjective or at the discretion of the person reviewing the RMA?

Mr Kukoc: It is ultimately at the discretion of the minister, but the overall proposal will need to prove that the labour market shortages in that region are arising out of the very strong employment growth and economic growth and out of the fact that this region currently has very low unemployment and high participation. So there are a number of factors that will be taken into account at the time of the decision. There is no prescribed threshold. It is more a

very solid labour market analysis put forward that actually proves the case for the regional migration agreement.

Senator CASH: Has the department done an analysis across Australia of areas that they believe may constitute regions for the purpose of a regional migration agreement?

Mr Kukoc: As part of the regional migration agreement consultations that we have done we have focused on the north-west of Australia—the Northern Territory, Queensland—and it is likely that areas such as Broome or regional areas in the Northern Territory or, for example, Gladstone in Queensland may be able to mount a solid case for a regional migration agreement. But to say anything specific at this stage would be speculative, because it is ultimately a decision for the minister and we are still working with stakeholders to bring forward those applications and cases for regional migration.

Senator CASH: Presumably, though, the department does have some indication of what it considers a 'region' if it is going to be providing advice to the minister in relation to the criteria that you have set out?

Mr Kukoc: I think just mentioned the key criteria of regional migration agreements that we are likely to use in our advice to the minister.

Senator CASH: To go back to my question: have you undertaken that analysis yet?

Mr Kukoc: The analysis of?

Senator CASH: Across Australia of areas that you think may well be 'regions' for the purposes of the definition of a regional migration agreement.

Mr Kukoc: We will issue the guidelines for the interested parties to lodge an application for a regional migration agreement. Following those guidelines, and applications that we receive, we will advise the minister on which of these applications are likely to make the desirable criteria under the RMAs.

Senator CASH: When does the department expect to begin negotiating an individual RMA? Is there a time frame in place?

Mr Kukoc: I would say sooner rather than later, and that would become more specific in the coming months.

Senator CASH: Can we place some bets on what 'sooner' is going to be? Is it the next few weeks? Is it the next few months?

Mr Kukoc: At this stage I can only say, without speculating about the minister's final decision on the announcement, it will be in the coming months, maybe even weeks.

Mr Metcalfe: What we need is a decision and an announcement by the minister, and the publication of guidelines. We would then be interacting with various regions which believe they may qualify. Then we would need to provide advice to the minister based upon the indicative criteria. So it does sound like it will take a little while to do all of that.

Senator CASH: Do you have a benchmark for when you would like to see an RMA up and running?

Mr Kukoc: I think the government said that the negotiations and the first RMAs most likely will be finalised this year.

Senator CASH: That could be in December of this year, at this stage.

Mr Kukoc: It could be. A lot will depend on the process and the proposals that are put forward, and the need for further information. As we have proven with the enterprise migration agreements, we had a pretty quick turnaround following the announcement of enterprise migration agreements with consultation guidelines being issued. We are now commencing with the negotiations around the first EMAs.

Dr Southern: I think it is fair to say that, given the consultations that we have undertaken in different parts of Australia, regions would be actively thinking through whether or not they would be likely to come forward with an application for an agreement.

Senator CASH: I now turn to the proposed hospitality and tourism labour agreement. I am advised that at a meeting with departmental representatives in 2011, members of the tourism and hospitality industry were advised that the government's policy was, 'We do not do labour agreements with industry groups.' This statement was confirmed to be members of the tourism and hospitality industry by a staff member in the minister's office who said that this statement was correct. Is that the government's policy or have they been given misinformation?

Mr Kukoc: I am not sure that this statement is correct.

Senator CASH: They were very surprised by it.

Mr Kukoc: We have been involved in intergovernmental efforts that are led by Minister Ferguson to address skills shortages in the tourism and hospitality industry. I personally was part of the presentation to a range of stakeholders in the tourism industry late last year discussing the various options available under the migration programs to facilitate the need for skilled labour in the tourism and hospitality industry. There was a lot of misunderstanding and misinformation about the potential of our existing programs to facilitate the needs of the tourism industry, particularly in 457 labour agreements. Since then we have developed an eight-page guide to the 457 program for the tourism and hospitality industry. This guide summarises the main requirements for the 457 program. We focus on the areas that the tourism industry perceives as difficult, and the guide is now available on the departmental website. This guide was part of the overall direct consultation we had with key tourism and hospitality stakeholders last year. We have conducted information sessions for small to medium businesses—

Senator CASH: Mr Kukoc, I appreciate your reading the briefing provided to you, but in relation to the information that was given to the tourism and hospitality industry, were they misinformed? Is it the government's policy to do labour agreements with industry groups or is it not the government's policy?

Mr Kukoc: Labour agreements are normally done between the Commonwealth government and an employer or a party that can meet the sponsorship obligations under the 457.

Senator CASH: Which could be an industry group.

Mr Kukoc: If that industry group or association is in a position to provide employment under 457 and meet the sponsorship obligations under the workers protection act which is the key requirement for a labour agreement. We need to have a body—

Senator CASH: So the answer is yes.

Mr Kukoc: that we can hold responsible for meeting the sponsorship obligations under the workers protection act. We will need to see whether that body, the industry association, can meet these standards and can meet the requirements of the worker protection act.

Senator CASH: In relation to my question, though—

Mr Kukoc: There is no policy, as such, of rejecting—

Senator CASH: So they were given the wrong information?

Mr Metcalfe: I think we would want to check what information they were given, but from what Mr—

Senator CASH: I will provide you with the details of the meeting et cetera. I have the staff member's name, but I will not put it on record.

Mr Metcalfe: We don't need that, but it would be good to know what information they were given and what question they had asked. Certainly the tourism industry is a very big industry with a very big association. Whether or not that association is able to meet the sponsorship obligations itself—

Senator CASH: That is not what was conveyed to them. Something quite different was conveyed to them.

Mr Metcalfe: That is where I suspect that we would want to have a look at the nuancing. I think we are trying to establish here what the position is.

Mr Kukoc: Because of the requirements of the worker protection act to have an employer who actually employs those 457 workers being held responsible for the sponsorship obligations, there are a range of ways we can work with associations or industry groups to facilitate labour agreements. For example, we can develop template agreements.

Senator CASH: With all due respect, that is not the question. They were told that this government does not do labour agreements with industry groups. It was confirmed by the minister's office. All I am trying to ascertain is: is that the government's policy? If so, there is clearly a line of questioning that flows from that. If it is not, can you reaffirm that the government does do labour agreements with industry groups? Obviously we will then correct the record with the people who had this meeting.

Mr Metcalfe: We may be able to have a conversation over lunch. On any information you have, we can talk with the minister's office about the conversation they had and if we can clarify it after lunch we will.

Senator BOYCE: I have questions about the Regional Sponsored Migration Scheme. Does it come under outcome 1?

Mr Metcalfe: It does and we could do that straight after the lunch break.

CHAIR: We will begin with Senator Xenophon and then move to the many other senators who have questions on outcome 1.

Proceedings suspended from 12:32 to 13:35

CHAIR: Let's reconvene this public hearing of the Senate's Legal and Constitutional Affairs Legislation Committee and our consideration of the additional estimates. We have the Department of Immigration and Citizenship with us and we are dealing with outcome 1.

Senator XENOPHON: I would like to ask a series of questions in relation to the use of overseas based flight crew working within Australia. That would be within the scope of your role. I asked some questions in the Senate last week—I am not sure whether you are familiar with that and the ministers answer—to do principally—

Mr Metcalfe: I am not sure whether colleagues are aware. We will certainly assist you as much as we can.

Senator XENOPHON: Sure. Some answers were given by the minister in relation to that. Can the department clarify which visas are issued to overseas based crew flying into Australia on international flights operated by Australian carriers?

Mr Allen: The visa for foreign crew on international flights is generally the crew travel authority, which is the manifestation in our systems of the special-purpose visa which international crew hold by dint of their position, allowing them to operate international flights into and out of Australia.

Senator XENOPHON: That is not a 457 visa, by any stretch?

Mr Allen: No, Senator.

Senator XENOPHON: Do the same visas apply when overseas based crew are flying domestic legs of international flights—that is, legs that have international tag numbers but are picking up and dropping off domestic passengers at domestic terminals?

Mr Allen: That is the case—yes.

Senator XENOPHON: To give a crew travel authority, is that just a pro forma application or is it assessed by the department?

Mr Allen: The crew travel authorities are normally applied for by the airline. In general, they are applied for in batches. They provide sufficient information about the individual for us to undertake certain prearrival checks, principally concerning whether or not there would be an issue with that person being in Australia.

Senator XENOPHON: Sure—as long as they provide that. Presumably, if they are not an undesirable person or a security threat, it is normally a pro forma application, in general terms?

Mr Allen: Pretty much, Senator.

Senator XENOPHON: But, in order to get a crew travel authority, it is understood that it is meant to be for international flights operating within Australia?

Mr Allen: That is correct.

Senator XENOPHON: Do you look behind that? Does the department audit or carry out other checks to ensure that Australian airlines are meeting their requirements in relation to the Migration Act with respect to these crew?

Mr Allen: If information came to hand, we would look into it, but I am not aware that we have been asked to do that recently.

Senator XENOPHON: I go back a step. In terms of the criteria to get a crew travel authority, it is understood to be for international legs of flights within Australia, or international flights—

Mr Allen: Flights which have an international leg—yes, Senator—the tag flights that you were talking about.

Senator XENOPHON: There must be a threshold by which a flight is genuinely an international flight rather than effectively a domestic flight.

Mr Allen: Generally, it will have an international coding and that would—

Senator XENOPHON: Is that all you look at—just the coding—or do you look behind that?

Mr Allen: We are not actually looking at the flight. What we are looking at in issuing the CTA is the fact that they are working for an international airline and that the purpose for which the CTA is being requested is for the purposes of operating international flights into and out of Australia. We do not look at it on a flight-by-flight basis.

Senator XENOPHON: It is for the purpose of international flights.

Mr Allen: Yes.

Senator XENOPHON: Is there a threshold or criteria for a flight to be deemed an international flight, from the department's point of view?

Mr Allen: The basic criteria is that at some point the aircraft has to fly an international leg.

Senator XENOPHON: A complaint I have had from flight attendants working on Jetstar is that if they are on a Melbourne-Sydney leg, 95% of the passengers might be domestic passengers but it is tagged as an international flight. Would you be concerned about that sort of practice, if that is occurring?

Mr Allen: I would need to know the specific flight. That is a hypothetical situation.

Senator XENOPHON: Sure, but let us go back a step. You give a crew travel authority. It is meant to be for international flights or for a domestic leg of an international flight. I understand that. But if a flight is departing from a domestic terminal, not an international terminal, and arriving at a domestic terminal, for instance, would that be an indicative factor as to whether that is genuinely an international flight or not?

Mr Allen: At some point that flight would have to fly an international leg. If it is a flight that is only domestic to domestic—it does not continue internationally and has not arrived internationally and continues a domestic leg—then clearly it is a domestic flight rather than an international flight.

Senator XENOPHON: At what point does a flight become domestic or international? The concern I have had from flight crew members is that some of the crew members—and I will stand corrected in terms of what Mr Bruce Buchanan, the CEO of Jetstar, said—get about a third of the wages of Australian flight attendants, even though their starting salaries might be a tenth or less than a tenth of flight crew members here. That is well above the average of their home countries, according to Mr Buchanan. I accept that. Is there not some form of criteria to determine whether a flight is genuinely an international flight, in order that the crew travel authority can be issued? To put it bluntly, the complaint I had is that this is the way some airlines get around the rules. They employ people on what are effectively domestic flights, to get cheap labour.

Mr Allen: I am aware of the context of this in terms of the investigation by the Fair Work Ombudsman. The information that we have in relation to the particular airline in question here is that they are only using international crew on the domestic legs of international flights.

Senator XENOPHON: If it is tagged as an international flight that means that the crew travel authority is appropriate.

Mr Allen: It is appropriate.

Senator XENOPHON: It gets the label of being an international flight, it is tagged and it leaves from a domestic terminal and arrives at a domestic terminal, and if the overwhelming majority of passengers are domestic passengers that is still okay, by your reasoning.

Mr Allen: No. I said that in those circumstances if it left a domestic terminal and then arrived at a domestic terminal my presumption would be that if it is an international flight it will also fly an international leg following that second arrival.

Senator XENOPHON: As long as it flies an international leg, even though most of the passengers on that leg would be domestic passengers, that is still okay. So as long as the airline goes off to Singapore, Bangkok or anywhere else out of the country, that is okay?

Mr Allen: In general, yes, in terms of the use of the CTA.

Mr Metcalfe: Is there a suggestion that the foreign crew are flying back and forth between Australian domestic destinations and working here or—

Senator XENOPHON: There is some suggestion of that. That is what has been put to me. I guess the next issue is: to what extent has the department worked with the Fair Work Ombudsman, whose investigation, I understand, is ongoing?

Mr Metcalfe: The correct answer to this will probably depend on the particular flight details and the crew details and the destination arrival details. But we certainly are happy to work with the ombudsman and would intend to do so—

Senator XENOPHON: Have you worked with the ombudsman to date?

Mr Metcalfe: Mr Allen is obviously familiar with the work the ombudsman is doing.

Mr Allen: My understanding is that we have not to date—

Senator XENOPHON: It has been an ongoing investigation. It is a high profile case. ABC's *Lateline* last year reported that foreign crew were stood down on what was a domestic leg, a Melbourne-Sydney leg, and that has not triggered an inquiry from the department?

Mr Allen: We have not had a separate inquiry, and I would need to take it on notice to determine whether or not we have been approached by the Fair Work Ombudsman for any involvement in their investigation.

Senator XENOPHON: No alarm bells went off? Presumably you were aware of that *Lateline* story last year?

Mr Allen: As far as I am aware, this goes to the conditions under which these crews are paid while they are on the domestic legs or on domestic flights. That is not necessarily an issue concerning the validity of a crew travel authority. The crew travel authority is there to provide the opportunity for international crew to fly to and from Australia.

Senator XENOPHON: Sure, but—

Mr Allen: What I am saying is that that is actually a condition of their employment and the labour circumstances rather than the visa per se.

Senator XENOPHON: But the only reason they can fly here is by virtue of their crew travel authority.

Mr Allen: Because they are international crew.

Senator XENOPHON: It is going to become a bit of a circular argument, isn't it? They are international crew on what you say is an international flight; but, if a flight is in effect a domestic flight, how is it that they have authority to fly on those domestic legs?

Mr Allen: I am certainly not in any way suggesting that it is in effect a domestic flight if it is a leg of an international flight.

Senator XENOPHON: You are saying that, as long as the airline says that it is a tagged international flight, it does not matter if 90 per cent of the passengers are domestic passengers; from your point of view, that is okay?

Mr Metcalfe: Senator, it has been a longstanding practice that international airlines travelling to and from Australia have been able to fly domestic sectors, and I think that was Mr Allen's—

Senator XENOPHON: Mr Metcalfe, you know very well that they cannot pick up domestic passengers. Emirates cannot pick up domestic passengers.

Mr Metcalfe: It is possible for people to travel domestically—

Senator XENOPHON: Yes, but they cannot pick up domestic passengers, can they?

Mr Metcalfe: Mr Allen will help me here.

Mr Allen: It would depend on the individual airline and the arrangements that they have in place both for the—

Senator XENOPHON: You tell me which ones. Emirates? They are not allowed to do it. United? They cannot do it.

Mr Allen: Senator, I would need to take the question on notice in relation to the individual practices, but there is a basic presumption here that we are providing the CTA for the purposes of its use for both the flying-in of international flights and the positioning of crew. Yes, airlines do vary in their practices in terms of how they fly the domestic legs of some international flights, but it is not intended for flights which are solely domestic in purpose. For that, an alternative form of visa would be required, something such as a 457.

Senator XENOPHON: At a Senate committee hearing last Monday, CEO of Qantas, Mr Alan Joyce, threatened that they would have to cancel their services in Darwin and Cairns if they were required to give their overseas based crew operating on domestic legs in Australia the same pay and conditions as Australian based crew. That was the purport of what he said. Is the department concerned that the statement could indicate that Qantas airlines are overly reliant on cheap labour to operate domestic legs of international flights?

Mr Allen: That is not a relevant question for this particular aspect of our immigration program. The CTA is there as a vehicle for international crews who fly in and out of the country. Labour arrangements are a matter for the Department of Education, Employment and Workplace Relations.

Senator XENOPHON: Mr Metcalfe, is there any concern—

Mr Metcalfe: I think the point you are making, Senator, is, 'Is, hypothetically, an airline misusing the entitlement for international crew, operating them as if it were a domestic service?' That is something I think I would prefer to take a good hard look at. If allegations have been raised, then that is certainly something we will examine.

Senator XENOPHON: Does the department see that it has a role to ensure that there are some minimum threshold requirements for a CTA to be issued?

Mr Metcalfe: There is an entitlement for crew to travel under those circumstances; if those circumstances were not present we would have a concern about that.

Senator XENOPHON: Once the Fair Work Ombudsman's investigation is carried out, will the department at least look at those findings in the context of the CTA?

Mr Metcalfe: Yes.

Senator XENOPHON: Thank you.

Mr Metcalfe: Chair, we have a number of answers to questions that were asked before lunch.

CHAIR: Let's do those now. Then we will go to Senator Furner.

Dr Southern: Chair, Senator Cash in the morning session was asking about under-18 prospective marriage visa holders who then did not go on to marry their partners. Over the five year period from 2007-08, five did not marry and they departed Australia—just five people. You also asked how many who did not proceed to a partner visa stayed on and applied for other visas, including protection visas. Our records indicate that since 2007 no prospective marriage visa holders in the under-18 category applied for a visa other than a partner visa.

Mr Metcalfe: Mr Kukoc was also going to add to an answer he gave this morning.

Mr Kukoc: Yes. I would just like to update the committee on the regional migration agreement guidelines. I said that the brief and the guidelines were with the minister for approval. The minister approved those guidelines on 30 January this year, and the guidelines will be published and announced in coming days.

Senator CASH: Enterprise migration agreements?

Mr Kukoc: No, regional migration agreements. The enterprise migration agreements were published in September last year. This is about regional migration agreements and this was just an update from my colleagues.

Mr Metcalfe: I think we indicated that it was still with the minister. We have now checked. The minister has decided. So we apologise to the minister. He dealt with it.

Senator BOYCE: This week it will be announced; is that what you are saying?

Mr Kukoc: In coming days. I cannot speculate on the exact date the guidelines will be announced. Chair, I am also happy to clarify some misunderstanding with Senator Cash about whether an industry association can enter into a labour agreement.

Mr Metcalfe: That was the tourism issue.

Mr Kukoc: Or we can come back with the answer to that as a question on notice, depending on the committee's preference.

Senator CASH: It was literally a yes or no answer that I wanted. Can you provide a yes or no answer?

Mr Kukoc: It is more complex than that.

Mr Metcalfe: I would prefer if we could answer it now rather than taking it on notice.

CHAIR: All right. Let's do that.

Mr Kukoc: There is no policy as such or legislation that would prevent an industry association from entering into a labour agreement; however, it is highly unlikely that an industry association could act as a direct employer of 457 visa holders and meet sponsorship obligations. I think that is what I said previously and that is the reason why no industry association has ever indicated to us that they would like to act as a direct employer and meet the sponsorship obligations. We facilitate the industry-wide labour agreements through the development of a template labour agreement that is negotiated with relevant industry associations and that applies to individual employers across that industry. So, theoretically, it is possible for an industry association, if they acted as an on-hire organisation and were the direct employer of these 457 visa holders. But it is highly unlikely that anyone would qualify and meet the criteria, given that they are not direct employers of 457 visa holders and cannot directly meet the employer sponsorship obligations.

This is why we have template labour agreement negotiation with the industry associations. We do that with industry associations that represent the industry as a whole, and when we negotiate the template labour agreements—like we did with the meat labour agreement or the ski industry or on-hire—that template labour agreement then applies across the industry. We cannot possibly exclude any member of that industry or any employee in that industry and negotiate a template agreement that would apply only to employers that participate in a certain industry association. Sometimes there are a number of industry associations that represent the industry. That is a very important factor to keep in mind. It is not exclusive and, essentially, once negotiated with the industry, it applies to all employers in that industry.

Senator FURNER: I have a range of questions for 1.1, starting with SkillSelect. Firstly, would you detail for the committee how the SkillSelect model will work—in particular, the expression of interest work and how the government will select the potential migrants?

Dr Southern: Perhaps I could start and my colleague can come in with further detail as necessary. Under the SkillSelect arrangements, which are to come into effect on 1 July this year, people who wish to migrate to Australia under the skilled program will be invited to lodge an expression of interest with the department that would include a range of information around their skills and occupation, their English-language skills, their qualifications et cetera, and with that we would be able to establish, if you like, a benchmark against the points test. At some point we would then, if they were ranked high enough, issue an invitation for them to apply for a visa under the skilled migration program. So it is a two-stage process. It means that people do not actually apply for one of these visas unless they are invited to do so by the department.

Mr Kukoc: SkillSelect will essentially apply to independent skilled migration only—that is, points based independent skilled migration. It will provide additional benefits to employer sponsorship visas, but it will not directly affect the way so-called demand-driven skilled migration works. Employers will still be able to find a proper person who meets the skill

needs of that employer and nominate them through a standard process. SkillSelect will not affect the way employers recruit their skilled migrants, but it provides additional benefits for them because they will have a database in which they will see the skilled migrants who expressed interest in migrating to Australia, listing all their attributes, skills and experience. They can also choose to pick up from that list and directly sponsor them. That is a very important point.

SkillSelect is predominantly here to better manage the independent skilled migration program. It is largely supply driven by the desire of prospective migrants to migrate to Australia. In a sense, if we work in a two-stage process, all these migrants will believe they have the necessary attributes and skills to meet our future labour market demands and become Australian permanent residence, they will express their interest, the information will be recorded in the database and then, on the basis of medium to long-term labour market needs, on the basis of various economic forecasts, skill shortages in various occupations and the level of those skills and attributes that these migrants in various occupations have, the department will select, under each occupation, the migrants who meet those attributes the best—that is, from the top down—and issue an invitation to apply. In that way, the management of the migration problem will be closely aligned with the number of places that the government of the day gives in the independent skilled migration context.

Senator FURNER: Would you identify the visa categories in that set?

Mr Kukoc: Intending migrants for independent, state sponsored, Australian sponsored and business skills migration will be asked to first lodge an expression of interest and then will be selected to receive an invitation by the Commonwealth. All those under employer sponsored migration, regional sponsored by employers migration, will not be requested to go through SkillSelect but can still use the benefits of SkillSelect to inform their decision about prospective migrants they may wish to sponsor directly.

Senator FURNER: How does SkillSelect contribute to the department's visa simplification and deregulation program?

Mr Kukoc: SkillSelect will also significantly contribute to the overall government direction of visa simplification as there will be a significant streamlining and reduction in the number of skilled visa categories. I have information about the range of visas we currently have, and these will be significantly reduced to only a few. We currently have more than 40 subclasses of skilled migration visas which will generally contribute to the overall visa simplification and objective that the government announced last year as they will be reduced to 10. That will be a significant contribution to visa simplification and will contribute to the overall target that the government has set of reducing the temporary skill visas by 50 per cent by the middle of this year, and the overall number of visa subclasses across all visa subclasses by 50 per cent by 2015. We are working specifically on the visa simplification. We have a team that does the visa simplification work which will lead to the reduction of these subclasses across the board, and each of these new policy initiatives by the government will also contribute to visa simplification independently of the overall visa simplification process.

Senator CASH: You stated that if a person's application is ranked high enough, that person would be invited to apply. What is the definition of being ranked high enough?

Dr Southern: I was referring to the points test.

Senator CASH: The person applying would know that they have to meet certain criteria.

Dr Southern: It is clear which aspects of their application go to achieving certain numbers of points under the points test. There is transparency around the points test.

Mr Metcalfe: I think it is best described as being like the university offer arrangement that applies to students finishing year 12, in that most courses have a minimum score that they are required to have, but whether they are invited depends upon how many people apply and the overall score set. As the ATAR is set for university students, the SkillSelect program will operate in a similar way. We will have a pool of people who we will be able to select from and thus have a far more efficient way of producing high-quality migrants.

Senator CASH: For people who are not ranked high enough, what process will be in place to advise them that they have missed out under that particular model?

Dr Southern: First of all they would not be invited to make the application and that may be because at a particular time, in much the same way as the university scores work, the cut-off is at a particular level and they would be below that. Their expression of interest would stay in the system and there may be a system like the second-round offers by universities, because we do propose to make invitations to apply at regular intervals during the course of the year. Someone would be aware that they have not yet been invited to apply, but their expression of interest would remain in the system for later consideration.

Senator CASH: What you do not want to see is a system in which people languish for two years and do not receive an invitation to apply, and they do not know what they could have done in the interim.

Mr Kukoc: The expression of interest will be valid for a certain period—that is, for two years. We will issue invitations to apply on a quarterly basis and then, at the expiry of that two-year period, the person who has not received an invitation to apply and whose expression of interest is still in the database will be advised that he has not received the invitation and that his expression of interest has expired. That person will need to lodge another expression of interest after two years. In that way, we will be able to circulate the expression of interest in the database and issue regular invitations. There will be the sunset clause, effectively, when the expression of interest expires and, if the person was not invited to apply, that person will need to again express their interest.

Senator CASH: Is there any recourse for that person to have their application reviewed?

Mr Kukoc: This is the expression of interest. It is not an application under the migration laws.

Senator CASH: And that is the difference between what the current system is and the new system?

Mr Metcalfe: It is a pre-application process.

Senator CASH: And that is my point. You could be sitting around for two years under the new system whereas under the old system you would have had your application processed.

Senator LUDLAM: Or not.

Mr Kukoc: Under the old system, if you lodged a valid application you were issued with a bridging visa. For example, if you were onshore, maybe with full work rights, and staying in the community for the period until your status is resolved, until you—

Senator CASH: Whereas under this you could be sitting for two years waiting for an invitation, for an expression of interest.

Mr Kukoc: Yes, and during that time, if the person is on another visa, a temporary visa, that person will be subject to the conditions of that temporary visa.

Dr Southern: One of the things we are proposing to do is that at each invitation round we would publish the standard, or the adequate points level, for each occupational group, so an individual would realise that they were under that points level and thus had not been invited to apply. There will be that information available. Obviously if a person's circumstances change in any way, if they have extra qualifications or further work experience or something like that, they could update their application.

Senator FURNER: I have some questions around the ongoing seasonal workers program. Can you indicate when the program is going to commence and the intention of the program?

Dr Southern: Senator, as you know, there has been a Pacific workers seasonal pilot scheme underway for some time now. The government announced late last year that it would proceed to an ongoing program, which will come into effect on 1 July this year. The program will build on the pilot scheme and the goal is really around Pacific development through work experience training remittances those sorts of things.

Senator FURNER: And what are the countries that will have access to the program?

Dr Southern: The program will be available to citizens of East Timor, Kiribati, Nauru, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

Senator FURNER: What is the size of the program and how will those visas be split across the different industries?

Dr Southern: Visa places for the program will be capped at 12,000 places for the four-year period. That takes us out to 2015-16. Of those visas, 10,450 are available for the horticultural industry nationally over four years and 1,550 of those visas have been set aside for a three-year trial of seasonal labour mobility arrangements for cotton and cane growers, aquaculture ventures and accommodation providers in the tourism industry. The bulk of the visas will be available as part of the ongoing program. A small proportion will be available for a further trial in industries other than those the original pilot addressed.

Senator FURNER: And which of the visa classes is the department using in facilitating the program?

Dr Southern: We are continuing to use the special program visa, the subclass 416, which was the visa that we used in the pilot.

Senator FURNER: Why have you used that specific visa in this case?

Dr Southern: It was the most appropriate visa that we had available at the time we were designing the pilot. We are undergoing a visa simplification project, and Mr Kukoc was explaining earlier about reducing the number of visa categories. We would be reluctant to create a new category if it was not necessary to do so. We are continuing with the 416.

Mr Kukoc: The 416 also reflects the international aspects and developmental objective of this program. This is what we used in the past 416.

Senator FURNER: Will there be any requirements for amendments to regulations required to implement the program?

Dr Southern: We do need to amend the migration regulations to include the seasonal work stream of 416 visas under the worker protection provisions in the Migration Act. Work is underway to have them in place for the 1 July starter.

Senator FURNER: How many organisations are approved employers under the pilot program?

Dr Southern: We currently have 15 organisations as approved employers under the pilot.

Senator FURNER: How many visas have been granted under the pilot program? From which countries have they come?

Dr Southern: A total of 872 visas have been granted during the course of the pilot, which began in 2008-09. Those visas have been granted to citizens from Kiribati, Papua New Guinea, Tonga and Vanuatu.

Senator FURNER: Have there been any compliance issues with the pilot program?

Dr Southern: The visa compliance across the program has been very high, with less than a one per cent overstay rate. As at the end of last year we had had three visa holders who were in Australia as unlawful non-citizens as their visas had ceased to have effect. We have had five visas cancelled during the course of the program. They related to things like breach of the work related visa condition or provision of fraudulent visa applications; but, overall, the compliance has been very high.

Senator FURNER: What do you intend to do to maintain that high level of compliance?

Dr Southern: We will continue to have a dedicated team of people who will be examining issues around compliance with the Pacific workers program so that we can maintain those high levels of compliance. We particularly work with prospective employers around their obligations, but we also work with workers in the broader communities around what is expected of people who arrive here under those visa arrangements.

Senator FURNER: There were some questions from Senator Cash on the regional migration agreements prior to the break. You certainly did identify the criteria required for the RMAs. I think it was a 150,000 population, low unemployment in those regions and, I think, one other factor as well. Why did you settle on that particular criteria for the RMAs?

Dr Southern: As my colleague Mr Kukoc mentioned when we were talking about this earlier, it is a range of factors which go to the characteristics of a particular region in terms of its labour force needs and skills needs. Together, the interplay between those criteria which go to low unemployment by historical standards, high participation rates and growth in employment point to the fact that there may be stresses in those areas in relation to accessing the labour that they need.

Senator FURNER: Are there any concessions that employers will get out of the RMAs in those particular regions?

Dr Southern: Concessions would have to be sought on a case-by-case basis, but they may go to things like English-language proficiency or salary levels. But there would have to be substantial supporting evidence to support a claim for a concession, and the department would consider each of those on a case-by-case basis.

Senator FURNER: I take it that would be the same as benefits employees would get as well: they would be done on a case-by-case basis.

Dr Southern: That is correct.

Senator FURNER: What is the current median processing time for temporary business (long stay)—457—visas?

Dr Southern: The current median processing time is 19 calendar days.

Senator FURNER: And how does that compare with times during the last mining boom—say in 2007-08?

Dr Southern: It is a considerable reduction of something in the order of 50 per cent of the processing time.

Senator FURNER: How has that been possible?

Dr Southern: We have established specialist processing teams for 457 visas. We have done a lot of work with prospective sponsoring employers around what is required for a decision-ready application. We can process visa applications very quickly if we do have all the relevant information in front of us. There have been other streamlining arrangements for sponsors who have a particular positive track record with the department in sponsoring 457 visa applicants. We had a specific measure in the 2011-12 budget to establish a further processing centre in Brisbane, and the setup for that centre is well underway now. That is also intended to continue to reduce the time taken to process these visa applications.

Senator FURNER: Would you identify the occupations that seek the 457 visas in the particular program?

Dr Southern: There are a wide range of sectors.

Mr Kukoc: The program continues to be used primarily for high-skill, high-paid positions, particularly in professional and management occupations. Professional and management occupations accounted for 78 per cent of positions nominated in 2010-11. In 2010-11, there were also 7,929 primary grants to technician and trade workers. This represents a 65 per cent increase compared to 2009-10, when there were only 4,794 primary visa grants. The strong pick-up in 457 applications and grants is mostly in states such as Western Australia and Queensland, which are experiencing mining and resource booms. It is also in sectors such as mining, resources and construction, and there is spillover in sectors like IT and health services. We have not seen a very strong pick-up—it is a low number of 457s—in industries such as manufacturing, which are currently under some pressure because of the high Australian dollar.

Senator FURNER: So those you identified—mining, resources, construction and IT—would be the biggest users of the program?

Mr Kukoc: Yes.

Senator FURNER: What is the average salary of 457 visa holders?

Mr Kukoc: Subclass 457 salaries increased overall in 2010-11. The average nominated base salary in 2010-11 was \$89,000 compared to \$74,200 in 2008-09. This reflects the trend of employers using this program for highly skilled occupations—predominantly professionals and managers.

Senator FURNER: How would you determine the program working? Is it performing well? Are there any issues you want to identify?

Mr Kukoc: I believe the integrity of the program has been improved since the reforms in 2008-09. We can also say from the statistics that employers are using this program effectively. We have seen some significant pick-up in applications and grants in 457 following the global financial crisis. The program has also been responsive to the economics conditions. We saw a significant drop in 457 visa applications, grants and arrivals during the financial crisis, but since the global financial crisis ended we have seen this strong pick-up in certain regions, states and industries in Australia. So we can say that it continues to respond to the economic cycle and business needs while, at the same time, the integrity has improved.

Senator FURNER: Okay. Thanks for those answers.

Senator BOYCE: On the topic of the Regional Sponsored Migration Scheme: firstly, how is that going to work with the new regional migration plans?

Mr Kukoc: The Regional Sponsored Migration Scheme is a permanent skilled migration program that brings in permanent skilled migrants to employers in regional areas. There are some concessions for these—

Senator BOYCE: I am aware of how it works.

Mr Kukoc: On regional migration agreements, while they may be using the Regional Sponsored Migration Scheme in terms of getting some permanent visa applicants into the regional migration agreements, they will be predominately focused on 457 temporary skilled migrants. It will be a combination of both, but predominantly regional migration agreements are for temporary skilled and semi-skilled migrants going to regional areas.

Senator BOYCE: I constantly hear about rejections of people applying for permanency who have come here under the Regional Sponsored Migration Scheme. It has been mentioned to me by a number of aged-care facilities in particular. Pinaroo aged care facility at Roma was the most recent one. Can you give me the figures on the number of applicants under the Regional Sponsored Migration Scheme who are not accepted initially and the results of the appeals, please, over the past three years perhaps.

Dr Southern: We can certainly take that on notice.

Senator BOYCE: Can you characterise it in any way?

Mr Kukoc: I would need to take it on notice and see the figures.

Senator BOYCE: If we are getting a 10 per cent failure rate that is one thing, but that is not the anecdotal evidence I am getting.

Dr Southern: Sorry, we just do not have that information to hand at the moment.

Senator PRATT: Picking up from my first query, which I am told is in outcome 1, on visa pricing, I understand there have been some changes which were announced last November.

Mr Vardos: I will make some overarching comments, but I will leave the details to my colleague Ms Johnson, subject to your questions.

Senator PRATT: What is changing and why?

Mr Vardos: I think it would be fair to say that the way visa pricing has been handled over many years by successive governments has not been in any particularly structured way. It is built around CPI increases and that does not take a very granular view of what the visa

products are actually worth and where the price elasticity or inelasticity is in that range of visas. We knew that competitor countries had a different pricing model than us, so as part of our transformation project over the last couple of years we have had a comprehensive review of the way we price our visa subclasses, to test where we could put prices up, where they have to stay as is and perhaps where they could be reduced. That is the theory behind it: to have a more structured approach. We started that work in 2010. We did benchmarking against our principal competitor countries—Canada, the USA, New Zealand and the UK—to see where our price structures sat, and we have moved on from there. Yes, we have come up with a new regime and the new pricing structure is being progressively rolled out from January this year.

Senator PRATT: Where do our price structures sit in relation to those other countries? As to it being progressively rolled out, are their incremental changes to meet whatever benchmark has been proposed or are they just kind of jumping to the new price points?

Ms Johnson: As Mr Vardos said, this work is a culmination of work that has been underway for some time, since 2010. The benchmarking activity that was undertaken showed a number of things. First up, it showed that Australia's prices for single applicant visa applications were reasonably competitive. For our multiple applicants, where we have one application and multiple applicants, it was quite low. The benchmarking showed that Australia is probably unique in the fact that we do not charge for all these applicants. The current regime, the current pricing system, has actually been unchanged since 1984. Our international peers actually have more price points than Australia does.

Australia is relatively competitive but a little high in relation to single applicants but we are quite low in relation to multiple applicants. The benchmarking showed that not all users pay for their visas and also do not pay for other services they seek. This change actually restructures our visa pricing regime and introduces a user pays model. It moves from a single visa-pricing point to multiple pricing points, including charges for all applicants listed on visa applications.

In relation to where the rollout is up to, as Mr Vardos mentioned, this is progressively being rolled out over a period of 18 months, which commenced on 1 January this year, with price increases varying from five to 15 per cent for 25 selected visa subclasses. Also, for the first time there was a reduction of five per cent for student visa applications. From July this year the introduction of charges for visa labels is planned, together with likely increases on CPI for the remaining visa subclasses. The introduction of surcharges for additional applicants, visa duration, subsequent onshore application and pay-for-lodging charges are planned from July 2013.

Senator PRATT: In the context of that, in which visa classes is it important to have a very competitive or low price point, versus those for which you can afford to do more cost recovery.

Mr Vardos: The two visa classes that immediately come to mind—and Ms Johnson can supplement this—are student and tourism. As Ms Johnson said, student visas have come down by five per cent. What is tourism?

Ms Johnson: Some visa subclasses are not affected. We have designed this to take into account those industry sectors. The electronic travel authority is not affected. Visitors from

the European Union are not affected; refugee, humanitarian and citizenship are not affected; and postgraduate research visas are not affected.

Senator PRATT: What changes are in place with skilled migrants?

Ms Johnson: The temporary skilled migrant is an increase of \$105 for a single applicant. For the permanent skilled migrant there is an increase of \$100 for a single applicant.

Senator PRATT: In terms of attracting skilled labour, would that increase would still be seen as relatively competitive compared to other markets competing for that labour?

Ms Johnson: That is correct. The benchmarking showed that that would still remain quite competitive. Because we were not charging for the additional applicants, the disparity between what we were charging for and what other countries were charging for was quite wide. The changes will be that, for skilled migrants, whilst there is a \$105 increase for a single applicants, additional applicants will pay.

Senator PRATT: You have made some remarks in relation to families and how they are affected. Overall, is the price going up or down for family groups? Does it vary according to the visa class?

Ms Johnson: The prices relate to a range of dimensions. First of all, there are the additional applicants. Where an applicant is bringing in additional applicants there will be additional charges for those applicants based on whether the additional applicants have either full-time or part-time work rights or whether the additional applicant is in fact under 18 years of age.

Senator PRATT: I have some questions about net overseas migration as well. I want to ask about the comparisons between NOM levels over the past few years until now and the current composition of net overseas migration.

Dr Southern: Overall net overseas migration has declined in recent years. We had a high in December 2008 of around 315,700 in net overseas migration. In June 2011 that had fallen to 170,300. The composition has changed over time. Primarily, the share of skilled migrants in NOM is on the rise. We have gone from around 36 per cent in 2010 to an anticipated 43 per cent by 2014.

Senator PRATT: Does that mean that, despite the fact that there has been a fall, it has not impacted on skilled migration?

Dr Southern: No. The overall proportion of skilled migrants has in fact increased over time.

Senator PRATT: I understand that proportionally that would be the case. What about in terms of the overall number? We note that states like WA have a skill shortage.

Mr Kukoc: When we talk about skilled migrants we need to take into account both permanent skilled migrants and temporary skilled, 457, migrants. As I mentioned, during the global financial crisis the number of 457 visa application grants and visa holders in Australia reduced but, since then, it has picked up quite strongly. We are seeing a rise of 37 or 40 per cent this year compared to last year. It is on the way up. And 457 is purely demand driven by the business cycle and business needs. At the same time, on permanent skilled migration, the government has announced that this year's migration program has 185,000, and 68 per cent of that, 125,850, are permanent skilled migrants. This is one of the historically highest levels of

skilled migration in Australia. When that is combined with the 457, clearly significantly increasing this year's number compared to last year, we can say we are running a very high level of skilled migration to Australia at the moment.

Senator PRATT: I think you have both touched on the current composition of NOM. I am interested in fleshing out the split between temporary and permanent migrants and those with work rights within that.

Dr Southern: I do not have the figures in front of me, but obviously the net overseas migration numbers are composed of both permanent migrants to Australia plus people who are here temporarily, for a given period of time, over certain periods. Do we have the breakdown with us?

Mr Kukoc: Senator, I would like to refer you to our publication, *The outlook for net overseas migration*. The department publishes this on a quarterly basis. That publication has a very comprehensive analysis of the drivers of net overseas migration, the composition, the structure and what is very important: the forecast of net overseas migration that the department does over the forward estimates. This has never been done before. Since last year, we have been publishing official forecasts of net overseas migration. The department based it on its knowledge of visa applications, grants, refusals, and knowledge of various pathways that exist between permanent and temporary migration. We also based our analysis on official economic forecasts, labour market demand and skill shortages. The department is in a unique position to do this official forecast and has, I believe, the best available forecast in the country of net overseas migration. This is a very useful and unique publication. I do not think that any other country in the world does that forecast.

Senator PRATT: Could you repeat the title of that publication?

Mr Kukoc: *The outlook for net overseas migration*.

Dr Southern: I actually have the breakdown of numbers from the June 2011 net overseas migration. Of the 170,000 figure, 89,600 were from temporary visa holders, and that includes students, 457s, working holiday makers and long-term tourists in Australia, and 83,300 were from our permanent migration streams.

Senator PRATT: That leads me to ask for an update on the development of the long-term migration planning framework, which I understand was announced last year. What is the importance of the framework? What does it comprise? How are we going in implementing that framework?

Dr Southern: The value of it is that we can look ahead a number of years in terms of what we think the likely migration outcomes will be and what net overseas migration will be. We will also look at what our needs are likely to be. Rather than doing it simply on an annual basis, we can look forward for a much longer period of time and use that information to help us work through the policy settings around skilled and other visas, work around the way we might settle the proportions of those visas and look at what we should be doing in terms of temporary visas as well. Any tool that helps us project and plan for a longer period of time has to be of benefit.

Senator PRATT: So it is an ongoing framework that will enable analysis to continue into the future rather than just be a policy setting for the near future or the medium term?

Dr Southern: That is correct. We would also build into it the implications of any policy change and use what we think the likely implications might be of a policy change to predict what might happen and therefore whether or not you would actually do something.

Senator PRATT: That would include, I suppose, factors like Australia's own ageing population, for example, in terms of the age profile of prospective migrants et cetera?

Dr Southern: That is correct.

Senator PRATT: I will have to find out a bit more about that. That is interesting. I have some questions about student visa reforms as well. The Knight review suggested a number of visa reforms for students. I was interested to know which suggestions have been implemented to date.

Dr Southern: Certainly. The government's response to the Knight review was announced last year and it effectively agreed to all 41 recommendations that Mr Knight brought forward. There is to be a staged implementation of the recommendations. As the secretary mentioned in his opening statement today, the first tranche of those changes were introduced in early November last year. The particular reforms that were introduced in early November went to establishing the genuine temporary entrant requirement. If you like, this was the cornerstone of Michael Knight's recommendations. It goes to establishing that someone who applies for a student visa is genuinely coming here to study on a temporary basis to achieve a qualification and then go home.

Senator PRATT: So, not to access the labour market?

Dr Southern: That is right—not as a pathway to permanent migration.

That criterion has been implemented now. It does not make it any more difficult for genuine students to apply and to be granted visas, but it does allow us another tool to refuse those who we believe are not genuine temporary entrant applicants at the time.

Other reforms that were introduced on 5 November included the reductions in the financial requirements for higher-risk assessment level student visa applicants—for assessment level 3 and assessment level 4 student visa applicants. That change was largely introduced to ease financial pressures for applicants, particularly to assist the non-university sector. The bulk of the recommendations, and those yet to be introduced, really do go to streamlining arrangements for students who are coming to Australia to study in our universities. So this particular change was put in place to ease the burden right across the board, but particularly for the non-university sector.

The next tranche of recommendations will be implemented in March this year. They go to the streamlining arrangements; streamlining visa processing for prospective degree level students—those enrolling in a bachelor or higher degree courses at participating universities and other institutions which offer degree-level courses. We are in a process at the moment of consulting with the universities and those who offer degrees around whether they wish to opt into these arrangements. That was an invitation which was given to them late last year and we are just working through those arrangements at the moment with the universities. But for those who agree and who wish to participate those changes will be put in place in March for students enrolling in second semester.

Senator PRATT: What will universities need to do in order to opt in?

Dr Southern: They will have to make a number of commitments, if you like, around reporting on and providing support for the students who come to Australia under the student visas.

Senator PRATT: Is that therefore in lieu of the department doing its own checks on those things?

Dr Southern: No. The universities have always had obligations in respect of these things, and the department obviously has its own obligations in relation to the integrity of the student visa program. But for universities which can demonstrate that they are able to make these commitments and adhere to those requirements, then we offer an easier pathway for them to enrol students.

Senator PRATT: It would make sense in attracting students to give them easier and more transparent paperwork, where you do not have duplicate sets of information.

Dr Southern: That is correct, yes.

Mr Kukoc: We will continue to be responsible for the visa integrity framework. Universities will be asked to assure the department that the strategies are in place to mitigate the risks that we believe lie with the universities, such as whether the student visa applicant has sufficient English to meet the course requirements or whether the visa applicant has sufficient financial means to pay the tuition fees. These are all the risks that actually are the risks for the universities.

Senator PRATT: That seems clear. What kind of impact, if any, do you think these changes will have on international enrolments—broadly?

Dr Southern: It should assist both universities attracting students to come to Australia and the students themselves in making the applications. Some of the additional reforms, which we have not touched on but which will come into play soon, include access to working visas immediately after a degree is achieved. While that again is not a pathway to permanent migration, it is an attractive option for students. Certainly the measures taken as a package should assist students to come to Australia and make it a desirable option, if they are looking at options in other countries.

Senator PRATT: It would seem desirable to me for prospective students to be working with their prospective university instead of a migration agent, for example. That would seem logical. Is that the kind of outcome you would expect from this?

Dr Southern: I imagine there will be countries and places where migration agents will still be used by students. But given the responsibilities which are placed on universities and the obligations that they have, they will clearly have a particular and vested interest in ensuring that these students are genuine and meet all the requirements. We would hope to see improved integrity more broadly around the program.

Senator PRATT: Lastly on student visas, where are the reforms that the assessment level framework review is considering up to?

Dr Southern: We have established a reference panel to assist with the assessment level review. We have issued a discussion paper publicly. It is on our website and is open for comment. I think comments are due back by 16 March. We are in the process of receiving submissions in relation to the assessment level framework review.

Senator PRATT: I can look it up. I have some questions under this outcome on tourism and hospitality. I think we have covered some of them already, so I will skip over those. When is the template labour agreement likely to be finalised and what kinds of concessions specifically might it provide?

Dr Southern: There is a discussion paper around a proposed draft template labour agreement out for comment at the moment. Again, we are expecting comments back by the middle of March. Once we have those comments in front of us, we will work on finalising a template labour agreement to take forward. I would not like to predict how long that will take. It will depend on the nature of the comments that we receive.

Senator PRATT: Is there a sense of the expected uptake for a labour agreement for tourism and hospitality?

Dr Southern: There is a great deal of interest in the tourism and hospitality sector for access to the programs. Some might be achieved simply through better information that has been provided around the 457 program, for example, and how it could be made available in certain circumstances. It may be that once there is that better understanding of what is currently available, some employers will be able to take advantage of that. Given the interest that we have received in relation to a template labour agreement and broader arrangements for that sector, I think we have could expect it to prove popular.

Senator PRATT: How many working holiday maker visa holders are there currently? What is the breakdown of their nationalities? In which regions are they working?

Dr Southern: On working holiday maker visas: the number of visas that were granted in the July to December period for 2011 was 110,541. That includes both the working holiday maker initial visa plus extensions—the second year, where people are eligible—and the work and holiday subclass group as well. The top 10 countries for working holiday visas granted are the UK, South Korea, the Republic of Ireland, Germany, France, Taiwan, Canada, Japan, Italy and Hong Kong. Those are the top 10 countries. And the industry—

Senator PRATT: And the sectors and the regions of the country that people would be working in?

Mr Kukoc: In 2010-11, around 90 per cent of the approximately 25,000 second working holiday visa applicants indicated that they engaged in agricultural work to acquire eligibility for the second visa, nine per cent undertook construction work and one per cent undertook mining work. In terms of the regions, again, we publish the *Working holiday maker visa program report* also on a quarterly basis with the detailed statistics breakdown and the regional take-up, but I will try to—

Senator PRATT: I can have a look at that.

Mr Kukoc: If there is anything that is missing from that report, I am more than happy to provide the answer to that question on notice.

Senator PRATT: What is the average time taken to process such a visa? That is probably covered in there as well, I would expect.

Mr Kukoc: From memory, I believe that for the initial visa it is one day and for the second visa it is four or five days.

Senator PRATT: Clearly you have outlined the most popular top 10. In terms of countries that currently do not have access, are there some countries that we have refused to give access to and are there others that we are in the process of negotiating with? If so, which countries are they?

Dr Southern: The government recently signed up to new work and holiday visa arrangements with Papua New Guinea and with Argentina. It comes up from time to time in bilateral discussions with different countries that they may like to enter into an arrangement with us, and sometimes we raise it as well, but I do not have details of any. I do not believe we have any negotiations underway at the moment.

Senator PRATT: So PNG has just come on line. I suppose I find it surprising that we did not have one with a close neighbour like that already. Were there particular issues that needed to be resolved in order for that to be implemented?

Dr Southern: No, I think that with Papua New Guinea we have a very longstanding and quite a close relationship with our counterpart migration department there. We deal with them on a wide range of migration related issues. The negotiations for the work and holiday visa agreement with PNG were underway for a few years. Sometimes that can take longer than others, as you settle the actual requirements and reach a set of arrangements that are mutually satisfactory to both countries, because it is a two-way arrangement, so we need to be satisfied as well as our counterparts in Papua New Guinea.

CHAIR: Senator Pratt, just while we are mentioning Papua New Guinea, I acknowledge that we have with us here in the room a parliamentary leadership dialogue group that has been organised by the Centre for Democratic Institutions, assisted by the former member of the House of Representatives the Hon. Duncan Kerr. We have present members of parliament from Papua New Guinea, Vanuatu, Samoa and Kiribati.

Welcome to our estimates process. This is a process that we are proud of, in terms of all of the democracies in the world. What you see here is members of the Australian Senate across all parties getting a chance to ask the minister and the parliamentary secretary or officers of the department questions, any questions, without notice about how they spend the money, what they spend the money on and how that is affecting the policy initiatives of the government. It is quite an open and transparent process. Senator Pratt has been asking questions about immigration policies in relation to Papua New Guinea. Those questions are probably very timely.

Senator PRATT: What are the benefits to us in relation to that arrangement with PNG?

Dr Southern: As with all work and holiday-maker agreements, the benefits are cultural. Young people from Australia and another country have the opportunity to work, study or travel in the other country and it gives them a sufficient period of time that they can become very familiar with the other country. So I think it is really about providing those opportunities for a structured visa program, if you like, for people, particularly young people, to travel, work and become familiar with counterparts in other countries. That is always a good thing.

Senator PRATT: Excellent. I have a question about the department's assessment of demand for 457 and other foreign labour visas for particular regions in Australia. Clearly we have skills shortages in some regions, but in part those skill shortages are exacerbated by the high cost of living locally. I am interested to know how the department weighs up whether

457 visas and foreign visas are actually viable considering that often the real reason you cannot attract workers to those regions for particular professions is the local high cost of living.

Dr Southern: Under the 457 visa program, there are minimum salaries which have to be offered by sponsoring employers to people to move into those jobs. That certainly plays a part in making sure that people can afford to live where they end up working.

Senator PRATT: I would contend that those minimum salaries are not enough to ensure that you can live in some of these regions. That is why Australians are not taking up those jobs themselves. Before the department will allow visas for those regions, how do you work through those issues?

Dr Southern: Are you talking about individual sponsored 457 visas or are you talking more broadly about perhaps a regional migration agreement where we are targeting a particular region?

Senator PRATT: Both.

Mr Kukoc: As I mentioned before, 457 is really a demand driven visa. It is driven by the employers' needs for skilled labour. The reforms from 2008 and 2009 have strengthened the integrity. One key criterion now under the 457 is for all foreign workers to be paid market rates, which means being employed under the same terms and conditions as an Australian worker in a similar occupation, with similar work experience, in a similar location. That criterion alone, with some added costs of overseas recruitment, sponsorship costs and return travel costs, means that employers will only resort to 457 foreign workers when the domestic labour in that occupation with similar experience is not available. It is clearly a price signal and economic incentive for employers not to employ foreign workers if there are domestic workers available.

We know that, as in any country, there are a number of impediments to labour mobility across regions and across sectors. I think that the biggest impediment is that, for some highly skilled occupations in specific sectors, such as mining and resources or IT, you need people who are highly trained and skilled with experience and it takes a while before you can retrain employees from other industries or other regions to meet the skills shortages and gaps. I believe the government has announced a number of initiatives in that area, like SkillConnect, so there are a number of government initiatives to enable domestic labour to be retrained and deployed and employed in the areas of skill shortages. But in the meantime, impeding business bringing in highly skilled foreign labour to meet the bottlenecks in the economy and business will mean significant impact on their productivity. It may mean that various projects and investments may fall through with wide consequences for the economy and the jobs of Australians.

Senator PRATT: I have no disagreement with that. It is really a question of the extent to which some particular regions are having difficulties, for example, so that the national market rate may not be the same as what the local market rate might be. When you say 'market rate' is that according to local conditions or Australia-wide?

Mr Kukoc: It is very simple: it is the employment of foreign labour under the same terms and conditions as a comparable worker with the same skills in that location. So it is locally based.

Senator PRATT: Thank you.

CHAIR: That is the end of the outcome 1. I thank the officers.

[15:01]

CHAIR: We will now move to outcome 2: Protection, resettlement and temporary safe haven for refugees and people in humanitarian need through partnering with international agencies; assessing humanitarian visa applications; and refugee and humanitarian policy advice and program design.

Senator CASH: I turn initially to the proposed Malaysia solution. Has the department continued discussions with Malaysia or NGOs in Malaysia about the implementation of the people swap deal since the minister's announcement on 13 October 2011 that the Malaysia solution was abandoned and onshore processing was implemented?

Dr Southern: We had our regular bilateral migration discussions with our Malaysian counterparts in November last year. This is something that we do every year. We certainly touched on those issues during the course of the discussions. I am not aware of any other discussions that have occurred from the Australian end, but our colleagues at post certainly continue the dialogue with their counterparts in Malaysia.

Senator CASH: Which colleagues are they post? The colleagues in Malaysia?

Dr Southern: We have representatives from our department in Malaysia, and they would primarily be the ones.

Senator CASH: How often would they continue that dialogue?

Dr Southern: I am not sure of that.

Mr Metcalfe: I do not think we are talking about the implementation of the Malaysia arrangement. That is clearly not possible under Australian law. We have an ongoing dialogue with the Malaysians about people smuggling and preventing people-smuggling issues, and we have an engagement with civil society in those countries as well.

Senator CASH: I go back to Dr Southern's evidence. I want to confirm it. My question specifically was to do with 'continued discussions' with Malaysia or NGOs in Malaysia about the implementation of the people swap since the announcement that onshore processing would be the policy position. You said that you have regular bilateral discussions, and those discussions were held in November 2011. At those discussions, was the Malaysia solution discussed?

Dr Southern: Only in terms of an update on what was happening domestically in Australia. I am sorry I missed the first part of your question. We have not been having discussions about the implementation of the arrangements.

Senator CASH: What about with NGOs?

Dr Southern: In Malaysia?

Ms Parker: Senator Cash, I do not believe there have been ongoing discussions with NGOs. We have a project running at the moment where there are discussions with NGOs in relation to any work they are doing in Malaysia working with refugees and asylum seekers. I am not sure if that is what you are referring to.

Senator CASH: No, I am specifically talking about the implementation of the people swap deal.

Ms Parker: No.

Senator CASH: You said you 'do not believe'; can I get you to confirm what that belief is? We are, however, still taking the 4,000 refugees?

Dr Southern: From Malaysia. That is correct.

Senator CASH: Have discussions occurred in relation to the 4,000 refugees that we are taking?

Dr Southern: These refugees are referred to us by the UNHCR, so there are certainly discussions with the UNHCR around the referral process.

Senator CASH: Any with our Malaysian counterparts or NGOs in Malaysia?

Dr Southern: Not to my knowledge, no.

Mr Metcalfe: I think they would be aware that it is happening, but, beyond that, there is no need to normally consult with them. We deal with UNHCR and IOM would probably assist us with travel arrangements.

Dr Southern: That is correct.

Senator CASH: Just confirm that, because I do not want to verbal you—and Ms Southern, you had missed the first part of my question. Since the announcement on 13 October 2011, there have been no further discussions in relation to the Malaysian people swap deal with Malaysia or NGOs?

Mr Metcalfe: I think what Dr Southern said is that, apart from advising the Malaysian government that the arrangement could not proceed, given the High Court decision. There has been no dialogue in relation to that, apart from the fact that the Malaysian government is aware that we are continuing to bring the 4,000 refugees to Australia over four years, and the primary engagement on that is of course with the UNHCR and IOM.

Senator CASH: On that basis, if there are no further discussions, can it then be assumed that the Malaysia deal is now off the agenda?

Mr Metcalfe: Yes, I think the government made that clear in its announcements, and there is nothing I can really add to that.

Senator Lundy: Unless you have some news for us, Senator Cash, and the opposition is considering reviewing their approach.

Senator CASH: Perhaps you have some news in relation to your alliance partners, Senator Lundy.

Senator CASH: Is Senator Hanson-Young here? No, she is not.

Senator Lundy: You are still not foreshadowing a change in policy?

Senator CASH: I am waiting to hear the announcement from the Greens. We went through this this morning.

Senator Lundy: Yes, we did. I am still fascinated by your questions in respect of this, because it implies that the opposition would like to see the arrangement with Malaysia proceed. But perhaps I am wrong.

Senator CASH: Is Senator Cameron here? Or Senator Marshall? I would like to see the left of the Labor Party support it.

CHAIR: Let's just focus on questions on the additional budget estimates.

Senator CASH: The department would be aware that the minister announced on the weekend of 3 December what he termed an 'aspirational policy', whereby the humanitarian program would be increased to 20,000 if they could reverse certain policy failures in relation to asylum seekers. That was said in an interview on Thursday, 1 December 2011 with Kieran Gilbert of *Sky News*. Has the department begun planning for this aspirational policy?

Mr Metcalfe: The aspect of policy advice and planning is something I would not normally canvass here. As I indicated in my opening statement, I think the government is looking at the issue of the size and composition of the refugee and humanitarian program as part of the budget process.

Senator CASH: The minister has actually stated that over time he wants to increase our refugee intake to 20,000 a year. Is that something we are planning for, an increase in the refugee intake?

Mr Metcalfe: There is no government decision for that. The minister has indicated that that is what he would like to see, contingent upon a number of other things happening. No doubt the minister will make announcements in due course through the budget process.

Senator CASH: In relation to the 4,000 refugees that we are still taking from Malaysia under the failed Malaysian solution, how many of them have arrived in Australia to date?

Ms Parker: Senator, I think we had some questions from you in relation to this in the Malaysia inquiry. It is quite difficult to answer, because we have not split up the component for the program from Malaysia this year. What we have indicated is that we would take an extra 1,000 persons each year over the next four years. The average intake from Malaysia in the past has been around 350. So we are expecting that we would take around 1,350 for this program year.

Senator CASH: How many have we taken to date?

Ms Parker: We have taken 769.

Senator CASH: Since 1 July 2011?

Ms Parker: Yes.

Senator CASH: You anticipate we would get to 1,350 by the end of this financial year?

Ms Parker: Or close to. We have indicated there is some ramping up required. So, certainly over the four years, it would even out to the 4,000 if we do not quite make it this year.

Senator CASH: How do you go about the ramping up?

Ms Parker: We have provided additional funding to UNHCR to assist with their referral process. I will have to check in relation to our numbers at post. I am not quite sure what we have done in relation to that.

Mr Metcalfe: Senator, this is of course within the earlier, overall global target of 13,750; and the 1,000 are being taken from Malaysia because of the discussions we had with them. As

a result there are 1,000 fewer being taken from elsewhere in the world. The overall size of the program and the cost has not changed.

Senator CASH: You say 'the cost has not changed', but Ms Parker just gave evidence that additional funding had been given to the UNHCR—

Mr Metcalfe: It is a transfer from elsewhere. It is within the global budget for—

Senator CASH: So how much additional funding has been given to the UNHCR?

Ms Parker: Senator, I am just looking for that. I could take it on notice.

Senator CASH: If you could find that for me, that would be appreciated.

Mr Metcalfe: I think the answer is that it is UNHCR in Malaysia. So, effectively, we have removed resources from elsewhere and put them into Malaysia.

Senator CASH: Could you then identify where you have removed the resources and where they have been transferred to?

Mr Metcalfe: The original basis of the arrangement was a net 1,000 additional places; whereas, given the inability to transfer asylum seekers to Malaysia, the government made it clear it would no longer proceed with that increase in the program, and is operating the program under its previous target of 13,750.

Senator CASH: When the minister announced the Malaysia agreement, he stated that 'the much lauded East Timor solution was on the backburner'. Can you confirm whether or not the East Timor solution was indeed put on the backburner at the time and whether or not the department or the minister have plans to bring the East Timor solution back into play given the failure of the Malaysia solution?

Mr Metcalfe: I would not conflate the two issues. The important thing here is the decision of High Court, which effectively renders offshore processing unavailable under current law. The view of the department based upon advice from legal experts is that there are probably only one or two countries in our region that would qualify under current Australian law—New Zealand being one of them.

Senator CASH: So East Timor is no longer on the table at this present point in time?

Mr Metcalfe: The answer is that there have not been any discussions since that time, given the state of Australian law.

Senator CASH: So it is not simmering; it is on the backburner?

Mr Metcalfe: I would say it is off the backburner because the law has changed.

Senator CASH: It is off the backburner completely. Can we now turn to the Afghan-UNHCR-Australia MOU. Of the 734 Afghans who—we were advised at the last estimates—were on a negative pathway and were awaiting removal from Australia, how many have been removed and in what capacity—voluntarily or involuntarily?

Dr Southern: Senator, the majority of those Afghan nationals who were on the removal pathway have in fact initiated legal challenges to the outcomes of their cases, so they are no longer available for removal.

Senator CASH: So it was 734 in October last year who were on negative pathways. How many have now initiated a legal challenge?

Dr Southern: I do not have that figure in front of me.

Senator CASH: Approximately—over the 700 mark? I am assuming it is going to be almost all of them.

Mr Metcalfe: I think that figure—negative pathway implies that there has been a refusal of primary and the people are then appealing ongoing review, the merits review. That figure will change, and of course some of those people may then pursue redress through international bodies such as the Human Rights Commission or, additionally or alternatively, legal review in Australia. So we would have to take on notice, I think, an update of that figure.

Senator CASH: Just in relation to the 734 Afghans who are on a negative pathway: what was exactly meant by a negative pathway? They have received a no.

Mr Metcalfe: A negative pathway indicates they have received a refusal at first instance, but then of course there are ongoing processes that mean that they may move from a negative pathway to a positive pathway or it may confirm their travel down that pathway.

Senator CASH: So in relation to these 734—

Mr Metcalfe: Sorry to interrupt: I do not think that would indicate that those people were people who had exhausted all possible avenues in Australia and were available for removal; it indicates that that is a pipeline of people heading towards that—

Senator CASH: That could have. But, in relation to Dr Southern's evidence, the majority of them have now appealed the negative pathway.

Dr Southern: That is correct.

Senator CASH: Have any been removed?

Mr Metcalfe: Again, I want to be careful: I do not think we should assume that Dr Southern said the majority of the 730 have appealed. I think we have some litigation requests on hand that it would not be in the hundreds; they are still on the pathway.

Senator CASH: Perhaps a better question is: how many of the 734 have instigated an appeal?

Dr Southern: We will take that one on notice.

Senator CASH: Have any of those 734 been removed from Australia either voluntarily or involuntarily?

Dr Southern: Over a period since the MOU was signed on 17 January 2011, we have removed five Afghan nationals voluntarily but there have been no involuntary removals.

Senator CASH: That was my next question: so that was since the MOU was actually signed there have been five.

Dr Southern: That is correct.

Senator CASH: What is the status of the injunction against the government to prevent the deportation of Mr Mirzajan who was due to be deported to Afghanistan in November?

Dr Southern: I believe that case is still on hand.

Senator CASH: When we say still on hand, what does that mean?

Dr Southern: I will look to our legal colleagues.

Mr Metcalfe: I will see if our lawyers can assist. We have quite a few cases on hand in the courts, so whether we have got that information immediately available—

Dr Southern: Certainly there have been some hearings, but I do not believe the case is completed. The case is still underway. It has not been completed so he is—

Senator CASH: Do we have a time frame in relation to the potential completion?

Mr Metcalfe: We will ask our chief lawyer to join us, and she might be able to assist if you are focusing here.

Ms Hardy: My apologies: I do not have the details in front of me but I will undertake to get them to you in the next half hour or so.

Senator CASH: In particular, how long this process in relation to Mr Mirzajan has taken to date; exactly where are you in relation to his particular case—or should I say where the government is; and how much longer you anticipate this case to go.

Ms Hardy: I will certainly try and find out for you. It may not be easy to discuss the details, depending on where it is up to in the courts.

Senator CASH: How many more injunctions are there against the government to prevent the removal of failed asylum seekers?

Ms Hardy: Under which circumstances? Can you give me some more detail?

Senator CASH: In terms of non-voluntary removal.

Mr Metcalfe: So essentially we are talking about people who in the department's and the review body's opinion are not asylum seekers, so they have been refused on the merits and are now seeking judicial review and there is an injunction preventing their removal in place—that is the question?

Senator CASH: Yes.

Mr Metcalfe: We will have to check on that.

Ms Hardy: Again, I will come back to you this afternoon.

Senator CASH: What other circumstances would there be in relation to the government being able to prevent the removal of failed asylum seekers other than the one that we are getting information on?

Mr Metcalfe: There is the practice that some applicants have of seeking a review of their situation by the relevant UN Human Rights Committee or the convention against torture—there are optional protocols to which Australia is a party—and the issue of their removal in that circumstance, although there may not be an order in place from a court, the Australian government has normally respected a request from that body not to remove the person to a place where it is argued that they would be in danger until that matter has been determined.

Senator CASH: In relation to injunctions that may be brought against the government to stop the deportation of a failed asylum seeker, could you also give to me the costs of the cases to date?

Ms Hardy: I will certainly try but, if they are still ongoing, that may be difficult.

Senator CASH: Or the costs incurred to date and anticipated costs that will be incurred to the end of the case.

Ms Hardy: That may be one we would have to take on notice, but I will certainly endeavour to get that this afternoon.

Senator CASH: Thank you.

Dr Southern: Senator, you asked earlier about the number of Afghan clients who were currently in a judicial review process. As at 31 January, that number was 97.

Senator CASH: In terms of injunctions that have been able to have been taken out against the government to prevent the removal of a failed asylum seeker, does the government have concerns that it is difficult to actually effect these removals?

Mr Metcalfe: It certainly is at times a lengthy and protracted process. There is nothing new about that. We have a system that does allow the proper review of decisions and the proper involvement of the courts, and of course that is guaranteed by the Constitution. In the absence of a constitutional change, it is part of the system, I am afraid.

Senator CASH: What is the end result if the injunction is not upheld and the government has the ability to remove a particular asylum seeker? What happens?

Mr Metcalfe: If a person is available for removal and there is nothing preventing them, then the Migration Act requires their removal as soon as practicable. The department would put in arrangements to secure the necessary travel documents if we do not have those and go through the operation of sending that person home. Depending on that—

Senator CASH: If they can go home.

Mr Metcalfe: That is assuming we have a travel document. On the basis that we are satisfied that there is no protection obligation for Australia, there is no legal constraint upon their removal and, indeed, we have a positive obligation to remove them from Australia, it then becomes a practical issue as to the circumstances of their return. Are they medically fit; do they have a travel document? This is something that we do, if not every day, several days a week: we remove people from Australia and sometimes that will be in circumstances of a very low-touch escort arrangement and sometimes, with particularly difficult clients, there might be a major effort required to secure their departure. It does rely upon them being physically able to travel and having the necessary documents to go somewhere, which is usually home.

Senator CASH: In terms of the reintegration packages—and I understand that I may have recently received an answer to a question on notice—how many countries have we got reintegration packages with?

Ms Parker: I could take that question. It is not an issue in relation to which country; it is in relation to the actual person returning.

Senator CASH: How many have taken advantage of the reintegration package to date?

Ms Parker: In 2011-12, as at 31 December there were 31.

Senator CASH: To which countries have they been returned?

Ms Parker: I can indicate that 20 of those were from Iran.

Senator CASH: Do you also have the cost of the reintegration package in the year to date?

Ms Parker: I do not have costs. I would need to take that on notice.

Dr Southern: The breakdown for those figures were for the 2011-12 program year to 31 December. There were 20 Iranians, three Iraqis, two Afghan clients, one Sri Lankan and five Vietnamese.

Senator CASH: Resettling asylum seekers to third countries is obviously a very laborious process. When was the last time that the government looked at another country and entered a dialogue with them as to whether or not we are actually able to effect a return to a third country?

Mr Metcalfe: Of an asylum seeker?

Senator CASH: Of an asylum seeker—or a failed refugee.

Mr Metcalfe: A failed refugee?

Senator CASH: Yes.

Mr Metcalfe: I am just trying to get the concepts right in my head. Ms Parker looks like she might be able to help—or not; she is ducking for cover! We have had a range of dialogue, both directly with countries and through our mission in Geneva in particular, about particular caseloads and whether or not they might be resettled in other countries. Depending upon whether they are an asylum seeker, a failed asylum seeker or a refugee, those may have been different discussions. There were discussions underway that I would not like to go into a lot of detail about, concerning some people who have been found to be of refugee status in Australia but where there are issues concerning their security clearance. That is a dialogue that is currently underway, for example. So I think the correct answer to your question is that there are a variety of discussions with a number of countries over a period of time in relation to the different cohorts. I am sorry I cannot be more specific than that.

Senator CASH: Can you be slightly more specific in relation to when the most recent discussions have taken place? Were they this year or last year? Were they in the last 12 months?

Dr Southern: Certainly within the last 12 months.

Senator CASH: In the last six months?

Dr Southern: In the last six months, yes.

Mr Metcalfe: They are never easy discussions is all I would say.

Senator CASH: The UK was able to remove 1,455 Afghans in 2009, and 64 per cent of those were enforced removals. Have you sought to discuss with the UK how they are going about achieving those removals?

Mr Metcalfe: Yes, we have had those discussions and we continue to have those discussions. We continue to work closely with the UK and other countries as to the issue of non-voluntary returns and the best way to achieve those. So we are very much interested in what the UK are achieving and are in dialogue with them.

Senator CASH: What is the difference between the UK's return policy—which obviously is quite successful, based on those figures—and our return policy?

Mr Metcalfe: I think that their position is somewhat more mature than ours in that we still have cases going through that pipeline and only a few becoming available at the end of the pipeline. So while there are injunctions afoot or processes afoot, it is simply not possible, not

lawful, for us to remove people. I think the UK's experience—very broadly summarising—is that they have had the caseload for a longer period and that they are more progressed in relation to that. There are other issues, though, including that they are subject to European human rights laws. They also have a relationship with the government of Afghanistan, and so on. So there are a number of variables in that, but certainly we are constantly looking at what other countries are able to achieve and seeing whether we can learn from that experience or employ similar arrangements.

Senator CASH: Mr Towle of the UNHCR advised us at our Canberra committee hearing in relation to immigration detention on 22 November that:

... the integrity of an asylum system requires meaningful consequences at the end of it—protection for those who need it and return for those who do not. Without the return stage, as difficult as it may be, the integrity of the asylum system is ... undermined.

And then, turning to the red book, which is obviously the advice to the incoming government, it states that increased returns would reduce pressure on detention capacity. So there is certainly an agreement that increased returns—

Mr Metcalfe: I do not think anyone is going to disagree on that fundamental proposition that the efficacy of any immigration program or refugee program ultimately requires that those people who do not qualify accept that they should go home.

Senator CASH: It is an agreed position that you do need the return stage of the process. What action has the department taken to return failed asylum seekers consistent with the advice given in the red book, Mr Towle's advice?

Mr Metcalfe: That is part of our daily operations. Dr Southern and others can talk about the detail but, to coin a phrase, the bread and butter of our operations is not only the admission of people to Australia and considering any requests to stay but also those who do not have an entitlement to stay here and who do not wish to leave are routinely sent home. For some people—

Senator CASH: Specifically in relation to failed asylum seekers.

Mr Metcalfe: In relation to failed asylum seekers, absolutely. However, we can only return people if there is a clear legal power to do so, if there is no injunction or other process interfering with that and if it is possible to have a person travel because they are physically able to travel and they have a travel document. As is well-known, that is relatively straightforward for some countries and it can be very problematic for nationals of other countries. That is an issue that governments over many years have had to face up to and deal with. We are doing that right now.

Senator CASH: One of the issues that was raised in the Williams-Hawke review was that if the government fails to return those who do not need our protection, it will not only continue to foment unrest in the detention centres but may act as yet another selling point for people smugglers and provide a very strong incentive to those who would seek to come by irregular means. Is the government actively pursuing other alternatives?

Mr Metcalfe: We are pursuing every possible means of enforcing Australian law. At times we take quite determined action to secure the departure of people from Australia.

Senator CASH: In relation to failed asylum seekers, we have not returned any yet.

Mr Metcalfe: Because they are not legally available to be returned. The last thing the department is going to do is break Australian law.

Senator CASH: We would not expect the department to do that.

Mr Metcalfe: But when the time comes, if the person is available and we can achieve their return but they are not cooperative, at times we will act with significant determination to achieve that return.

Senator CASH: I would like to follow that up as it will be my last line of questioning in this area. The issue at hand is that this is a very long and drawn-out process which could go for some years. When you say you will act with some determination, what are the actions that the government will be able to take when we get the first person who is free of legal hurdles and the government can return them to their country?

Mr Metcalfe: Our normal approach is to work with people and to convince them of the merits of going. It is much easier to secure a person's passive cooperation, even if they are not happy, rather than having to physically remove them from the country. There is a variety of mechanisms for doing that: working with the person, giving them information about the circumstances of their return, reintegration assistance as part of that. These are all methods that have been introduced and trialled for a long time now. But ultimately, if a person needs to be physically restrained and carried on to an aircraft to be taken out of the country with a number of escorts then that does occur. It is the last resort and we wish it did not have to happen, but ultimately it is an act of sovereignty from Australia to enforce that aspect. That is something that we do when we have to, but we try every possible way within reason not to get to that point. Removing people from Australia is something that we do on a regular basis. But I absolutely agree that asylum processes, the contestability of information, the availability of more information as the process goes on and the appeal levels are issues that have vexed immigration ministers for many years and not doubt will continue to do so. Underpinning those is the constitutional guarantee in section 75(5) of the Constitution that a person subject to the cause jurisdiction will have access to the question or legality of decisions of Commonwealth officers and so forth.

Proceedings suspended from 15:34 to 15:50

Senator CASH: Can I now turn to PNG? Have specific talks commenced with PNG on the asylum seeker processing centre announced on 14 March 2011?

Mr Metcalfe: Have they ceased?

Senator CASH: No—commenced.

Mr Metcalfe: They certainly did commence. I was involved in some of those discussions in the lead-up to that announcement, and subsequently. But, of course, those discussions are also effectively suspended given the state of Australian law.

Senator CASH: That was my next question. What is the current status of the discussions?

Mr Metcalfe: Obviously, we have advised our PNG counterparts of our appreciation for their willingness to enter into an MOU and a dialogue with us. But given the High Court decision, the view is that there is no point in proceeding any further at this stage. I would regard the matter as suspended.

Senator CASH: But, as you say, it is 'at this stage'.

Mr Metcalfe: If the law were to change then, of course, it is a matter that the government would be able to reconsider.

Senator CASH: When were those in PNG advised that the talks regarding the processing centre had been suspended?

Mr Metcalfe: I ask Dr Southern, who has had carriage of most of the talks; but, obviously, following the High Court decision we were in discussion with the PNG authorities to indicate the significant issues that that gave rise to. Subsequently, there were the political and parliamentary discussions as to whether there would be amending legislation. Given that that does not appear to be progressing, I think the PNG authorities have been briefed basically to say, 'Well, at the moment we cannot continue'. But Dr Southern might be able to add to that.

Dr Southern: Certainly, Papua and New Guinea was advised at the time that the High Court decision was made and then subsequently have been kept up to date on what has been happening domestically here with the legislation. I do not have the exact dates in my head, but it has been an ongoing update as there have been changes to report to them.

Senator CASH: Have there been any discussions with PNG in relation to plans to reopen the Manus Island facility?

Mr Metcalfe: That was effectively what the discussion was about.

Senator CASH: And you are saying that there has not been any since the minister announced that the Malaysia solution was off the table?

Mr Metcalfe: Effectively, it was not just Malaysia—it was offshore processing, given the law as enunciated by the High Court. It has been quite clear that while PNG is a signatory to the convention, it has a number of reservations. There are other issues associated with the High Court decision that, in the advice available to us, mean that an offshore processing centre in PNG would not be viable. And, of course, the government's position has been that that is not the only part of the arrangement; that the PNG arrangement was part of a bigger whole, and so it of itself would not be seen as an effective deterrent to people-smuggling operations.

Senator CASH: Thank you for that, Mr Metcalfe. Have there been any ongoing discussions in relation to the reopening of the Manus Island facility?

Mr Metcalfe: Not since it was made clear that the government was not in a position to proceed, given the state of Australian law. There are very regular discussions between a variety of officials. We have a formal dialogue with the PNG immigration service. Our high commissioner in PNG, of course, is talking with colleagues and counterparts there and there are ministerial-level discussions. But it is quite clear, since the government's announcement that it was unable to proceed, that the issue of reopening Manus has not progressed.

Senator CASH: Or any other facility?

Mr Metcalfe: Or any other facility.

Senator CASH: Has any money been provided in the budget for this facility or indeed any other offshore processing facility?

Mr Metcalfe: I will get Mr Sheehan to join us and take us through—we are getting towards outcome 4 though. I think we are still in outcome 3 and this aspect of offshore processing—

Senator CASH: Outcome 2.

Mr Metcalfe: Sorry! We have not even got to outcome 3, so we are sort of jumping ahead a little bit. He can quickly advise the treatment of the budget of this issue.

Mr Sheehan: There is no additional cost in the budget for Papua New Guinea or Malaysia as part of the MYEFO process. Those costs that were budgeted into last year's budget have been reversed, other than the costs that we had spent in Malaysia up until the announcement.

Senator CASH: You are saying there are no additional costs for PNG or Malaysia. Any other facility?

Mr Sheehan: No.

Senator CASH: Has the \$131 million that was allocated for establishing a centre in PNG been reversed completely?

Mr Sheehan: It has.

Senator CASH: It was reversed completely, other than those costs which had already been expended.

Mr Sheehan: Yes, from memory, in PNG. I will stand corrected, but I think it was about \$100,000 for travel for a range of people. I will give that when we have a chat as part of outcome 4.

Senator CASH: Okay. I would like to know exactly how much of that money was expended and on what—the \$131 million for PNG.

Mr Sheehan: The \$100,000 or whatever—

Senator CASH: Yes, if that is the total amount you say was expended.

Mr Sheehan: It is minor but I will get you the exact number.

Mr Metcalfe: Primarily, it will be travel and accommodation costs for our officials to pursue the discussions and site visits. We are well and truly into outcome 4.3 here, Chair, and I think we are still in outcome 2.

CHAIR: Yes, we are in outcome 2 so let's pull back and finish with outcome 2.

Senator CASH: We may continue this in outcome 4.3, Mr Sheehan. I now ask a question that is hopefully in relation to this outcome. How many people being housed on Manus were part of those costs?

Mr Metcalfe: That would be 4.3. Ms Hardy does have some responses to earlier questions in this area that she can come back to you on, when you are ready.

Senator CASH: Thank you. I now turn to Nauru. Are there any questions relating to Nauru—4.3?

Mr Metcalfe: Yes. Where we are into is really onshore protection, visa processing and the refugee and humanitarian program, but we have separately treated and accounted for offshore arrivals, in all aspects, and that is in 4.3. We can come back to you on those legal case questions you had about the Afghan judicial review cases, if you would like.

Senator CASH: Thank you, if you have the information.

Mr Metcalfe: Ms Hardy can come back to you on that.

Ms Hardy: Firstly, I will give you the details on the Mirzajan matter that you were asking for. Mr Mirzajan currently has two matters.

Senator CASH: Can I ask what they are?

Ms Hardy: Yes. One is an application for an injunction in the Federal Magistrates Court.

Senator CASH: Is it still at the applications stage?

Ms Hardy: The injunction has been issued. The terms of that injunction were varied but it will be discharged upon a fresh removal decision being made in relation to Mr Mirzajan.

Senator CASH: He has lodged in the High Court.

Ms Hardy: He has lodged in the High Court, seeking to challenge the minister's decision not to intervene on his behalf. There were four cases that commenced in the High Court last week, on 8 and 9 February, and they are currently reserved for judgment. They are four test cases out of a total of 123 cases.

Senator CASH: So there are four test cases in the High Court.

Ms Hardy: Yes.

Senator CASH: And there will be decisions next week.

Ms Hardy: No, the matter has been reserved for judgment. The hearing is completed. It could take several months for that judgment to be—

Senator CASH: What were those test cases?

Ms Hardy: There are four of them? Do want the names? They are numbers and—

Senator CASH: If you have the names, yes please.

Ms Hardy: They are S43/2011, S10/2011, S49/2011 and S51/2001.

Senator CASH: What are the nature of the cases?

Ms Hardy: They are effectively trying to argue the M61 decision from November 2010 and seeking to extend procedural fairness to a whole range of other matters, particularly the ministerial powers. So it is not likely that we will have the decision for several months in that matter. The High Court has reserved, and we have undertaken that no attempt will be made to remove Mr Mirzajan until these matters have been resolved.

Senator CASH: What is the status of the other four?

Ms Hardy: They are in the same position. We need to wait until the High Court decision. You also asked, Senator, about how many other injunctions we have at the moment on foot. We have two cases currently before the courts where failed asylum seekers are seeking injunctions to prevent their removal.

Senator CASH: Presumably the High Court avenue will also be available to them?

Ms Hardy: Yes. One of them is certainly in the 123 as well.

Senator CASH: In relation to the cases where injunctions have been brought against the Commonwealth, are you able to tell me what costs have been expended to date?

Ms Hardy: No, I am not. That I will have to take on notice just to make sure I am accurate on it.

Senator CASH: And also what costs have been incurred and the anticipated costs.

Ms Hardy: Yes.

Senator CASH: Do you anticipate that you will see further appeals to the High Court, other than the ones that we have now outlined?

Ms Hardy: It will depend on the outcome of the—

Senator CASH: The result of the test case—

Ms Hardy: And the other matters in the other courts.

Senator CASH: The issue I have with Mr Mirzajan is that it sounds like he could continue to be in detention for some time, based on how long this is going to be going on for.

Mr Metcalfe: I will not comment on the circumstances of his detention and whether he would be eligible for release into community detention or a bridging visa, but certainly it sounds as if he will be in Australia for some time.

Senator CASH: He will be in Australia for some time. So there is a possibility that he could be put onto—

Mr Metcalfe: That is possible. The minister looks at those cases individually and would make an assessment on the overall circumstances, but that is a possibility. Where we are, as we discussed before the break, is that we have a number of significant matters going on appeal to the High Court which will hopefully provide some jurisprudence to be applied by the lower courts. The High Court is a court of first instance as well in these matters under the Constitution so, as we anticipated, the courts have a significant and quite complex caseload as we move through and produce cases down that negative pathway.

Senator CASH: In relation to some general questions under this outcome, can you provide a breakdown of all offshore applications for humanitarian and refugee visas by post-country of origin, nationality, age and gender in the year to date?

Mr Metcalfe: It is certainly one we would very much have to take on notice.

Senator CASH: You will take it on notice? Okay.

Mr Metcalfe: That would require quite a lot of work, I imagine, to produce.

Senator CASH: I will place another question on notice. In answer to question 232, the department claimed it had previously used the cancellation provisions of the act to cancel the visas of those protection visa holders who have travelled back to their country from which they claimed persecution. How many visas have been cancelled?

Dr Southern: Sorry, question 232?

Senator CASH: Yes. The department claimed that it had previously used the cancellation provisions of the act to cancel the visas of those protection visa holders who have travelled back to the country from which they claimed to be persecuted.

Dr Southern: I am looking at a different question 232 here. Is that from the last Senate estimates?

Senator CASH: It is not in my file, unfortunately.

Mr Metcalfe: Essentially you are asking for an update?

Senator CASH: Exactly. Do we know how many visas have been cancelled for people who returned to the country from which they had sought protection?

Dr Southern: We will take that on notice. I do not have the detail here.

Senator CASH: I will put a series of questions in relation to statistics on notice.

Dr Southern: Just on statistics for both offshore and onshore protection and refugee visas, we do put out quarterly statistics, quite detailed ones.

Senator CASH: Turning to persecuted Iraqi Christians, there was an article on 16 November 2011 which reported that the Foreign Minister, Mr Rudd, and the Minister for Immigration and Citizenship met with leaders of the Assyrian, Chaldean and Mandaean communities and pledged that they would take the concerns of persecuted Christians in Iraq to the UNHCR. Has the department been asked to pursue with the UNHCR the deteriorating conditions of Christians in the Middle East as promised by Mr Rudd and Mr Bowen?

Dr Southern: I am not entirely sure whether we have pursued it with UNHCR in that context but we do have ongoing discussions with UNHCR about the resettlement program more broadly and we certainly have a commitment to resettling Iraqis and we do have a particular focus on those highly vulnerable minorities, including the Chaldeans—

Senator CASH: My next question was going to be this: will the department's refugee and humanitarian program be focusing on providing places for persecuted Christians in the Middle East, including Coptic Christians in Egypt? Are you saying that there is already a focus on that?

Dr Southern: That is correct. Over the past 10 years, over 70 per cent—that is the figure I have here—of all Iraqis who have been resettled in Australia have in fact been drawn from Christian minority groups.

Senator CASH: Even those arriving here as irregular maritime arrivals?

Dr Southern: No, this would be from our offshore refugee—

Senator CASH: Sure.

Dr Southern: I believe the discussions Mr Rudd and Mr Bowen had around this would have been in relation to the offshore refugee program.

Senator CASH: But at this stage you have not had a specific request in relation to this meeting to take the concerns of the Assyrian, Chaldean and Mandaean communities to the UNHCR?

Dr Southern: We have certainly had discussions with our minister about these groups, amongst others. I have not participated in those so I can take it on notice.

Mr Metcalfe: I think the answer is that the department has, but it is probably not the officers here. We can check on that. I know for a fact, because I have discussed it with the minister several times, that he is very concerned about that particular group.

Senator CASH: Could I also get a breakdown over, say, the last five years of the number of people who have come to Australia under the offshore processing program and who are Christians from these countries? I know you said approximately 70 per cent, but could I have

that breakdown over the last five financial years? When you say 70 per cent of all Iraqis, how many visas does that actually amount to?

Dr Southern: I will probably have to take that on notice. I have percentages but I do not have the number.

Senator CASH: What percentages do you have there?

Dr Southern: That is the 70 per cent I gave you. As an example, in 2010-11 we resettled 613 Chaldean Catholics, 408 Mandaean Christians and 185 Assyrian Christians who were all born in Iraq.

Senator CASH: Thank you. The rest of my questions are under outcome 4.

Senator HANSON-YOUNG: I have some questions around the quotas in relation to the special humanitarian visas. Mr Metcalfe, I am not sure if you need to bring—

Mr Metcalfe: No, we have the right people here.

Senator HANSON-YOUNG: Great. Firstly, I want to make sure we are very clear about the current quota, given the changes in MYEFO, just to get that on the record.

Dr Southern: This is the quota for the special humanitarian program?

Senator HANSON-YOUNG: That is right.

Mr Metcalfe: As part of our 13,750 offshore places—is that the question?

Senator HANSON-YOUNG: Yes.

Ms Parker: In relation to the current year, it could be as low as 750 for the offshore part of the program.

Senator HANSON-YOUNG: Out of the 13,750, how much has been allocated to the special humanitarian visa applications?

Dr Southern: It is 7,000 for the special humanitarian program.

Senator HANSON-YOUNG: Of course, because of the linking, you say it could be as low as 750 for offshore. How many SHP applications have been lodged?

Mr Allen: I have a global figure here. It is not divided up by program here, but at the end of December 2011 there were around 20,500 individual people whose SHP applications had not yet been decided.

Senator HANSON-YOUNG: You cannot give me the date range for that? When you say 'global', what—

Mr Allen: That is, if you like, the stock on hand at the moment. We would need to go back and break that up by program year for the actual application dates.

Senator HANSON-YOUNG: If you could take that on notice, that would be helpful.

Mr Allen: Yes, Senator.

Senator HANSON-YOUNG: Has there been any look in the department of reviewing the linking between the special humanitarian visa categories offshore and the onshore application?

Dr Southern: That is an issue that comes up most years in our broad consultations on the humanitarian program. It has been the case that the onshore and SHP components have been linked for many years.

Senator HANSON-YOUNG: I think it was 1996.

Dr Southern: That is correct—1996-97. It really is a tool, if you like, to manage the overall humanitarian intake. So, while we are certainly aware of the concerns and pressures on the program, at this time they are remaining linked.

Senator HANSON-YOUNG: So there has been no formal review of the linking of the program conducted by the department in the last 12 months?

Dr Southern: We always look at it in terms of the annual consultations on the refugee program, but the outcome is that at the moment it remains linked.

Senator HANSON-YOUNG: But has there been any specific review of the linking of those two programs?

Mr Metcalfe: I am not aware of any specific review. It is a matter of government policy. Basically, the government has made it clear that that is its current policy position.

Senator HANSON-YOUNG: When you say that you, as a matter of course, are reviewing or watching, what are the factors that you take into consideration? When you come up with the figure of 750, aside from the number of people who are applying and seeking asylum each year, whether by boat or by plane, are there any other factors that are taken into consideration?

Mr Metcalfe: There has been an annual consultative process. We fund the Refugee Council of Australia to provide a very detailed submission to government. As Senator Cash indicated before, our minister has talked about aspiring to have a larger refugee and humanitarian program. The numbers have increased and there have been one-off increases, such as the resettlement of locally engaged employees who had worked for Australian defence forces in Iraq, for example, being an additional humanitarian gesture for those particular people. From memory, Senator Evans as minister increased the program to its current 13,750 and, of course, the program was to increase again as part of the arrangements with Malaysia, but that has not been able to proceed.

So the short answer is there is a regular review. At the same time the government does note that there is a cost to the Australian budget in relation to the resettlement of refugees and it has to balance a whole range of issues in that regard. So at the moment we have a figure of 13,750, we are going to that consultative process and the policy currently in place is that there is a direct link between the numbers of onshore arrivals granted protection visas and the offshore humanitarian program. It was that very issue that I was flagging as an area of concern in some comments that attracted some publicity last year.

Senator HANSON-YOUNG: That only makes up 7,000 of the 13,750.

Mr Metcalfe: That is right. There is 6,000 funded refugee places as well.

Senator HANSON-YOUNG: That is right. So in discussions within the department around how we would manage an increase in the overall intake to 20,000 what work is being done to see how we can increase the special humanitarian visa intake within that?

Mr Metcalfe: We discussed this with Senator Cash before. Effectively there is no work underway at the moment in relation to increasing the program to 20,000. The minister indicated I think in the context of the ALP conference an aspiration to increase the program. But clearly there are budgetary and other issues to work through in that regard. We are

currently in the middle of a budget process. Part of the budget process is the examination of the humanitarian program for next year. So obviously announcements will be made at the time of the budget.

Senator HANSON-YOUNG: But at this stage there has been no formal review of that linking within that group of 7,000?

Mr Metcalfe: No.

Senator HANSON-YOUNG: If or when that group itself might expand?

Mr Metcalfe: That is clearly a matter for government policy. If the government wish to change their policy then I think they have the information available to them as to what that would involve.

Senator HANSON-YOUNG: Okay. One of the reasons I am particularly interested in that program, of course, is that, with the increasing number of unaccompanied minors arriving in Australia, that is the option they have to be able to bring out family or other relatives. Therefore they are making them no longer unaccompanied. What advice is given to unaccompanied minors while in detention in relation to the special humanitarian visa category?

Mr Metcalfe: I do not think the department would be involved in providing any information per se. If a person who had been found to be refugee made inquiries then of course we would advise them. I think we have been quite clear in recent times in making it generally known that, unfortunately, due to the increase in successful asylum claims in Australia the number of humanitarian places is reducing rapidly, and that indeed has been the subject of some comment through the consultation process that we are currently underway.

Senator HANSON-YOUNG: So for those unaccompanied minors who have been given refugee status and have been found to be in genuine need of protection, they are made aware that at the moment there is a very slim likelihood out of the 20,500 applicants that they are going to bring—

Mr Metcalfe: That there is virtually nil because of that relationship and because of the pressures that have come on an ability of the people in Australia to propose family overseas. As I have said, that is one of the issues that I flagged as being one of the complicating aspects of the current arrival numbers—that it was severely reducing the ability of people in Australia to propose family members; and, of course, not just people who have arrived as asylum seekers but people who have come here under our offshore humanitarian program who are seeking to be reunited with family. That is clearly a major area of pressure for us.

Senator HANSON-YOUNG: The case of the unaccompanied minor Shahi of course is one that has been publicised and the findings are public. There were comments made during that case in relation to 'prompt decisions' needing to be made, I guess because of the sensitivities around the age of unaccompanied minors. What is the department's understanding of what a 'prompt' decision means?

Dr Southern: It would be to get to the decision as soon as we practicably can, given the information we have in front of us. At all times we are conscious that the longer it takes us to make a decision, the longer a person is in detention. So certainly our aspiration is to reach those decisions as soon as we can. I do not know if, Stephen, you are able to comment?

Mr Allen: Not really much more than that only that the figures that we have indicate that certainly the average processing time from arrival to visa grant for younger applicants—zero to 17—are shorter than for older age groups. Of course we have done a lot of work since the introduction of the Protection Obligations Evaluation program in March last year in shortening the primary assessment time. That is probably as far as I could comment on it.

Senator HANSON-YOUNG: Are you able to table those figures that you have?

Mr Allen: Yes, I could table them.

Senator HANSON-YOUNG: That would be handy. Does the department have a written explanation of what 'prompt' means? It was used in this case. I accept that you have given us an explanation, but is that the departmental policy? Is it written somewhere that these things—age—are taken into consideration? If not, what are the criteria by which you use to help make a prompt decision?

Dr Southern: There are a range of materials that are available to people who have applications in front of us and translate it into a range of languages as well. They cover the process that they are undergoing and some of the expectations that they can have around the department's interaction with them. I do not have any particular examples with me. We can certainly take that on notice, though—the nature of the information that they are provided with in relation to processing.

Senator HANSON-YOUNG: I would be interested in that, but that is not precisely my question. My question is: what are the directions or guidelines that are used by the department in ensuring that you undertake prompt decision making?

Mr Allen: This is advice to decision makers? I would generally take this on notice because there is a degree of detail here. But the decision makers operate within frameworks of, if you like, expected timeframes for the average case and also in terms of review of cases which appear to be dragging outside of those time frames. But that is a level of detail which I think we should give you in writing.

Senator HANSON-YOUNG: I am happy for you to take that on notice, the issue being: what guidelines and what factors you consider in deciding whether you are being as prompt as possible, as per the decision of the court?

Mr Allen: Certainly.

Senator HANSON-YOUNG: The other questions I had in outcome 2 were actually follow-up to questions on notice that you took last time. I think they fit in outcome 4, but the answers were written as if they were in the outcome 2. They were in relation to Wickham Point. To me that fits directly into outcome 4.

Mr Metcalfe: Wickham Point does fit into outcome 4, if it is about detention circumstances.

Senator HANSON-YOUNG: It is about the construction and planning applications.

Mr Metcalfe: It is outcome 4.

Senator HANSON-YOUNG: That is fine.

CHAIR: Is that all for outcome 2 for you?

Senator HANSON-YOUNG: Yes.

Senator BOYCE: I want to ask about refugee and asylum seekers with a disability. What is DIAC's process of identification and recording of asylum seekers and refugees with a disability so that they can get service provision during detention and post detention?

Mr Metcalfe: That is probably more a question for the parts of the department that run the detention program. Almost all of those offshore arrivals are asylum seekers, and the aspect of medical assessments and appropriate treatment—

Senator BOYCE: But you do not have a policy?

Mr Metcalfe: We do, but I am saying that would fit into the aspect relating to detention as opposed to asylum seekers. The records in relation to the needs that people have while they are in our care—

Senator BOYCE: What outcome are you saying it goes under?

Mr Metcalfe: Outcome 4.3.

Senator BOYCE: Again, I am hoping this is a policy question. What discussion have you had with FaHSCIA about the National Disability Insurance Scheme and how it would work and apply to asylum seekers?

Mr Metcalfe: We might just check on that. There is no-one at the table who—

Senator BOYCE: That was the recommendation from the Productivity Commission.

Dr Southern: We will check that for you.

Senator BOYCE: My last question—I will put some on notice: has there ever been an audit into the accessibility of all our onshore and offshore detention centres to see if they are compliant with Australian disability access standards?

Mr Metcalfe: I will suggest that you raise that at outcome 4.3. Again, detention facilities and their appropriate construction, subject of course to the scrutiny of the public works committee, are issues under outcome 4.

Senator BOYCE: It does not sound to me, Mr Metcalfe, as though refugees and asylum seekers with disabilities are very top-of-mind issues for the department.

Mr Metcalfe: I am just directing you to the right outcome.

Senator BOYCE: Thank you.

CHAIR: Senator Cash, you want to follow up on one thing Senator Hanson-Young—

Senator CASH: I did and it was in relation to the aspiration by the minister on Thursday 1 December that he would like to see the refugee intake increase to 20,000 refugees per year. One of the other statements that the minister made was that it would be fiscally irresponsible to increase the refugee intake at the same time as having all the costs and expenses that go with a high level of boat arrivals. What was the minister's statement based on?

Mr Metcalfe: I would have to ask the minister.

Senator CASH: Would he have had advice from the department?

Mr Metcalfe: I think that that was purely a policy announcement he made at the time of his party's national conference. No doubt he drew upon a range of material available to him, but the department was not briefing him.

Senator Lundy: Senator Cash, I am very happy to take that question on notice for the minister.

Senator CASH: Thank you; I appreciate that.

Senator Lundy: Obviously, he is far more capable of telling you what was in his mind, if he so chooses, than the officials of the department.

Senator CASH: I appreciate that, thank you.

Senator PRATT: I have got two sets of questions on two different topics. One relates to Coptic Christians and some of the claims that the Liberal Party has previously made that under the Howard government there were about 100 Coptics every year accepted in consultation with the Egyptian Coptic Church in Australia. Is there anyone who can run through by financial year the figures for offshore humanitarian visas granted to Egyptian Coptics? Could DIAC please advise the committee how many offshore humanitarian visas were granted between 2000 and 2001 through to the current period.

Dr Southern: From 1 July 2001 to September last year—they are figures we have—165 Egyptian-born people who identified themselves as Coptic Christian were granted refugee and humanitarian visas, but I do not have the breakdown year by year of the number.

Senator PRATT: Is the department aware of a commitment given by former minister Kevin Andrews that 100 places would be put aside for Egyptian Coptics under the offshore humanitarian program for the period 2007-08?

Dr Southern: I am aware of that commitment, but I do not have any of the detail in front of me. I do understand that, given the numbers that I have just given you for the period 2001 to 2011, clearly the 100 per year was not met, but that would be in relation to the number of applications that we received.

Senator PRATT: As I understand it, that commitment was for 2007-08. It seems to me that there is not a match-up between that commitment and what actually happened, but please take that on notice and clarify whether 100 visas were granted in that year as per the commitment.

Dr Southern: Certainly. A commitment was made in relation to the number of visas, but how many visas were granted ultimately came down to how many people applied. We will certainly take your more detailed question on notice.

Senator PRATT: I look forward to that. I have a question in relation to irregular maritime arrivals who arrive without passport or other identifying documentation.

Mr McCairns: The figure has been pretty much the same from time immemorial. The number of arrivals without passports and the like is about 98 per cent and, broadly, without any documentation at all is about 80 per cent. It has been pretty consistent.

Senator PRATT: Clearly it is possible for a person to be found to be a refugee without a passport or identifying documentation, but how do you as decision makers currently assess evidence of such documents being destroyed in the context of such asylum claims?

Mr Metcalfe: The fundamental requirement is that the person meets the requirements of article 1A of the refugee convention: that they have a well-founded fear of persecution. On the issue of the circumstances of their arrival—whether they have a travel document or not or whether they destroy that travel document—there are a range of plausible explanations for

that. You could go to the fact that it was taken from them and recycled by the people smuggler. They could be deliberately trying to hide their identity and substitute a different identity. All of those matters have to be assessed by our departmental officers in assessing the credibility of the person and any claims they may have. We have officers who are highly trained in seeking to identify the identity of the person. The reasons for and motivation of any actions, such as arriving without travel documents or destroying them en route, are pertinent to that but not conclusive. It would be quite outrageous to suggest that a person who arrived without a travel document was not a refugee per se, because they could well be the subject of persecution. On the other hand, you should not be so naive as to expect that some people may not try to conceal their identity.

Senator PRATT: It is debated at times—and I understand such policies have been put forward by the coalition—that a presumption should be made against an individual being a refugee if their ID or paperwork is destroyed. You have outlined to me that one of the motivations might be to conceal your identity, but clearly they might be reasons that pertain to your actual claim for asylum in that it is not safe for you to have such documents.

Mr Metcalfe: There are probably an infinite variety of circumstances. It is certainly not appropriate for me, as I do not talk about government policy, to talk about alternative policies.

Senator PRATT: That is fair enough.

Mr Metcalfe: What I can say, as I have a lot of experience in this area, is that there are bound to be a range of reasons, some of which may add to a person's credibility that they are a refugee and others that may simply indicate that they are looking to exploit the system. Of course, we see all of those things. One thing that we have been able to do in recent years is to substantially add to our understanding of identity through the introduction of compulsory fingerprinting of all protection visa applicants. That has interestingly revealed, when we match those fingerprints with a number of partner countries, that some people are known to them in other identities. Again that can throw up reasons for the person trying to change their identity or why have they may have been somewhere else. It certainly adds to our understanding. But ultimately what is important are well-trained officers working with people to understand their situation and then making an assessment as to whether they are a refugee or not. I think that will always be the case.

Senator PRATT: I understand you cannot debate coalition policy with me, but how would a government go about enacting a presumption against refugee status in cases where it could be assumed that the applicant had indeed deliberately destroyed their identity documents? Have previous governments attempted this?

Mr Metcalfe: I think it would be open to the parliament, if it wished to, to give directions to officers as to how they should treat particular circumstances. The test would always be whether that complies with international law. Ultimately in being a signatory, one of the first signatories, to the refugee convention and protocol, our fundamental obligation is to provide protection to people who are at real risk of persecution.

Senator PRATT: Have governments looked at this before?

Mr Metcalfe: Everything has been looked at before.

Senator PRATT: I would assume that should a government look to introduce such a presumption against refugee status, it could put us in breach of our international obligations

because someone could be a refugee and we would be refusing to assess their claim when we have a legal obligation to assess it.

Mr Metcalfe: I am simply saying that successive Australian governments, in looking at means of administering a very tough area of policy, have always acted on the basis of Australia's legal obligations. That has been the case consistently over many, many years.

Senator PRATT: What is the department's understanding of the UNHCR's view on this matter?

Mr Metcalfe: I will ask Ms Parker to answer that, but I would be surprised if UNHCR's understanding is anything other than ultimately countries are required to give effect to their obligations under the convention. Indeed, in discussions with the High Commissioner for Refugees today and last night, he has pointed to the increasing complexity of irregular people movements and the fact that quite often you see both migration and refugee movements mixed up in the same situation which makes the job of governments more complicated. But ultimately there are international norms and obligations that must be fulfilled. Ms Parker, who is a bit closer to this issue, might be able to relate a particular comment that has been made.

Ms Parker: My understanding of UNHCR's position on this is as Mr Metcalfe described, that having such a presumption would potentially place Australia at risk of breaching our non-refoulement obligations.

Senator PRATT: That is simply because we would not be assessing people who have a legitimate right to seek asylum and in essence we would possibly be returning people who have a legitimate claim to asylum.

Ms Parker: Exactly, yes.

CHAIR: We thank officers associated with outcome 2.

[16:40]

CHAIR: We move to outcome 3: Lawful entry of people to Australia through border management services involving bona fide traveller facilitation; identity management; document verification; intelligence analysis; partnerships with international and domestic agencies; and border policy advice and program design.

[16:40]

Senator HANSON-YOUNG: Firstly, I want some figures on the number of minors who are suspected of or charged with people smuggling or being boat crew who are currently being held in detention facilities. I am interested in all facilities, not just those specifically earmarked as immigration detention facilities.

Dr Southern: As at the end of December 2011, a total of 88 Indonesian crew were in immigration detention, including 28 minors. Your question also went to how many had been charged. I do not have that figure in front of me.

Senator HANSON-YOUNG: What about other detention facilities or prison?

Dr Southern: The immigration detention would cover any form of immigration detention. I am not sure about prison. We will have to take that on notice.

Senator HANSON-YOUNG: Regarding those who are minors, the 28, what stage are they up to in terms of being able to access legal representation? Have they been allocated legal aid officers? I assume you will have to take that one on notice as well.

Dr Southern: Yes.

Senator HANSON-YOUNG: How many have been assisted or put in contact with the Indonesian consulate, and how many people identifying as minors have not yet been in contact with the consulate?

Dr Southern: We will take those questions on notice.

Senator HANSON-YOUNG: I want to follow up on question on notice 275 from last time. It was in relation to communication with the Indonesian consulate. In your answer you said that, while notification for immigration detention of Indonesian nationals is provided to the Indonesian embassy or consulate in line with bipartisan agreements, there is no specific arrangements in place based on a person's age. Am I correct in my reading of that—that somebody's age, that is, if they are a minor, does not trigger a particular type of consultation or communication to the consulate?

Dr Southern: That is correct. My reading of our answer is that it relies on consent, irrespective of the age of the client.

Senator HANSON-YOUNG: Has there been any thought to changing that practice?

Dr Southern: We are relying on agreements which are made under the Vienna Convention on Consular Relations. I am not aware of any further discussions that ongoing in the department in relation to this.

Senator HANSON-YOUNG: Of course, I will ask the Attorney-General's Department tomorrow as well. From the immigration department's perspective, you are saying that there has been no review of that process to date.

Dr Southern: That is correct.

Senator HANSON-YOUNG: When looking at the budget papers, I found it very difficult to work out how much the department was quarantining or able to manage specifically for the detention of those who are suspected of or have been charged with people-smuggling offences. Can you point me to where that is capsulated, please?

Mr Metcalfe: We might get the chief financial officer back to see if he can assist. It may be aggregated so that it simply does not appear. If you want information, we would have to provide that on notice to you.

Senator HANSON-YOUNG: If it is easy and I just cannot see it, great; if it is not, then take that on notice.

Ms Wilson: As the secretary said, it would all be rolled into 4.3. If you want separation, we would have to provide that for you.

Senator HANSON-YOUNG: Could you provide that for me? The reason I am asking is that, obviously, the states contribute something to those costs. How have you negotiated what the states pay and what the Commonwealth pays? There must be some ability to say, 'It costs this much.'

Mr Metcalfe: I think that at that stage the cost would move to the Attorney-General's portfolio.

Senator HANSON-YOUNG: Even though the detention is managed by you?

Mr Metcalfe: When they are in corrective custody, it becomes a criminal matter in the lead-up to a decision in immigration custody. I would say that, effectively, we would bear the expense in this portfolio until the point when they are actually convicted and imprisoned. Once they move into the criminal justice correction system, then that becomes a cost borne under the appropriate Commonwealth-state arrangements in relation to that, which is administered in the Attorney-General's portfolio. Is that a correct understanding?

Dr Southern: Once they are remanded—corrections—pick up the costs.

Senator HANSON-YOUNG: So they do not have to be convicted. Ms Wilson, going back to your point, if you could take on notice your budget for suspected or charged people smugglers or those as crew on board vessels, that would be helpful, because it is very hard to—

Ms Wilson: It is probably going to be the actuals that we have spent over a period rather than a budget per se, because—

Senator HANSON-YOUNG: That is fine. I am happy with actuals. I want to go to the campaign that has been spoken about a number of times by government ministers. Mr Metcalfe, you and I have spoken in this forum about this before as well in relation to campaigns offshore trying to deter people from participating in people-smuggling activities—not asylum seekers but individuals who get caught up as crew. Could you outline to me that program? What is it officially called? What does the program look like? How much has been budgeted?

Mr Metcalfe: I will have to refer you to the Australian Customs and Border Protection Service because they have administration of that program. The department does some work on behalf of Customs in that aspect. As you know, we have made a number of videos that have been used, seeking to get the message through about the inherent danger of the program. Mr McCairns, I think I am correct in thinking that that is largely a program administered by Customs.

Mr McCairns: Yes.

Mr Metcalfe: So I would refer you to Customs whom I assume you will see tomorrow.

Senator HANSON-YOUNG: I will but I want to get to the bottom of exactly what the department's role in the program is.

Ms Wilson: The department began an onshore low-level communication activity in about April 2010 targeting various communities of people who are arriving on boats. It put out some communication activity, including 'People smuggling. Don't risk it,' targeting Iraqi, Iranian, Afghan, Sri Lankan communities in particular, and translating a lot of information into those languages. We also put out public notice ads in ethnic media, which started appearing in April 2010, and news reports based on press releases in a whole bunch of community languages for those relevant groups as well. We put out a range of brochures and distributed them to a range of humanitarian settlers through DIAC and Centrelink client liaison officers from about January last year.

Senator HANSON-YOUNG: But, Ms Wilson, they all sound like they are very much focused on asylum seekers as opposed to—

Ms Wilson: Getting the message out through those communities.

Mr Metcalfe: Our role has been in relation to the diaspora resident in Australia, but the responsibility of trying to get messages through to people who might use a people smuggler is something that Customs administers, so they have had programs in Sri Lanka and a number of other countries associated with more directly targeting that message.

Senator HANSON-YOUNG: You have not spent any of your budget on communication to deter Indonesian nationals from getting involved.

Mr Metcalfe: I will stand corrected but I think that we have given Customs some assistance in part with that but, effectively, it is their program and we have provided some of our public affairs expertise to them. Whether that is actually a budget cost or simply something that we have done, I am not sure if we can add to that.

Ms Wilson: My understanding is Customs have given us some money to help in that process, and we have been running the onshore element of that strategy.

Senator HANSON-YOUNG: The financial cost has not been borne by the immigration department.

Ms Wilson: That is my understanding.

Mr Metcalfe: We will double-check that and we can do that over the next little while. We will make sure that Customs know that you will be asking questions here tomorrow.

Ms Wilson: I have an answer to a previous question. Just to confirm: it is all money provided to us by Customs and, year to date from 2011-12, we get funding for communication activities and around-year production activities. It is fairly low key. We do a lot in house, and it has been about \$340,000 year to date this financial year.

Senator HANSON-YOUNG: I want to go to the issues in relation to age determination. Obviously, that is an issue for both Indonesian nationals who are suspected of people smuggling but also in terms of determining unaccompanied minors and children and what facilities they are in. Can you step us through the process of what the department is currently using as their age determination process.

Ms Wilson: I think we have talked to you about this at other estimates but we use a focused interview technique for age determination where we use two experienced interviewers in the presence of an independent observer. We have Life Without Barriers as the independent observer in these interviews. We have a focused interview which takes the relevant clients and explores their schooling, the ages of their siblings, their dates of birth, where they lived, when certain events happened in their lives and we look for a consistency of story. We also compare that with their entry interviews and other information they have provided. What we are about is not determining the exact date but determining whether someone is clearly an adult or clearly not an adult and that is the focus of the technique that we use.

Senator HANSON-YOUNG: The department is not engaged with the use of X-rays, wrist X-rays or skull X-rays.

Ms Wilson: No. If that information is available we will use it as an additional bit of information, for having the conversations, but we do not commission them.

Senator HANSON-YOUNG: What do you mean by 'if it is available'? If you do not commission it, where do you get it from?

Ms Wilson: Sometimes the AFP have undertaken X-rays that might be available for their own purposes.

Senator HANSON-YOUNG: The department is not in the practice of commissioning that type of evidence collection.

Ms Wilson: No.

Senator HANSON-YOUNG: When the AFP has collected that information, are you automatically told about it or do you ask them whether they have it?

Ms Wilson: I might refer to my colleague, Mr McCairns. Sometimes the process happens in parallel. It depends on the sequencing of the process but I might just see if Mr McCairns has anything to add.

Mr McCairns: No, we do not request at all.

Senator HANSON-YOUNG: Is it the department's view that the process you take to determine whether somebody is clearly an adult or not is sufficient?

Ms Wilson: With some of the techniques used that I mentioned before, like the wrist X-rays, there is a lot of research out there which suggests that they are not exact and the ages we are talking about there could be a plus or minus of three to five years. In terms of the process, we have consulted with the Human Rights Commission and the ombudsman and, in the past, with the medical profession and the Health Advisory Committee. We think it is the best process we could have at this moment.

Senator HANSON-YOUNG: You do not feel like you need the X-rays to have the same result.

Mr Metcalfe: No. We believe that our process is appropriate for our purposes. It is something that we have worked through very carefully, to come up with a process that we believe gives us the best information in what is clearly going to be an inexact situation—unless there is clear, documentary evidence from the individual as to what their age is, and that evidence is correct. In those circumstances where there is a doubt, we believe this process is a good one.

Mr McCairns: And it is for different purposes. I do not want to go into the AFP's portfolio; that is for them to answer. We are more interested in detention placement in terms of age. Also, of course, if they eventually become a protection visa recipient and they are a minor there are other benefits that flow from that, as we discussed earlier. We would use it for these purposes. The AFP obviously have their own agenda on that.

Senator HANSON-YOUNG: So if there were X-rays available that were being conducted by the AFP, it is not a practice of the department to use that evidence to confirm or deny the other determination process you have gone through.

Mr McCairns: No. We would always now use an interview process, as Ms Wilson has pointed out. If that X-ray is available it is a piece of evidence, but we would always go

through a two-person—quite high-level people—interview and with Life Without Barriers as support for the person.

Senator HANSON-YOUNG: If it is available, what weight do you put on that piece of evidence?

Mr McCairns: I do not have that in front of me. I will confer later and try to get back to you rather than take it on notice. I am almost certain we would use the forensic, if I can use that word, interviewing process—hopefully, done in a gentle way—with cross-checking of dates and times et cetera.

Senator HANSON-YOUNG: That would be great.

Ms Wilson: On the point of the interview, if there is any doubt it would go in favour of the client. All of these bits of information would feed into that process and if there is any doubt—if the two interviewers could not agree—the outcome would go to the benefit of the client.

Mr McCairns: I have just had it confirmed. Yes. If there were a doubt about it we would always go on the client's side, if that makes sense.

Senator HANSON-YOUNG: I have questions relating to the AliceGhan project and the recent reporting on that. Mr Metcalfe, we have this conversation a lot. Do not believe everything you read. It is an opportunity for your department to clarify exactly what is going on with that program.

Mr Metcalfe: We will get Ms Parker back to assist as this fits into her international cooperation area.

Ms Parker: That project was one that was commenced many years ago. In fact, it was under the previous government. It was actually concluded and handed over to the Afghan government in 2009 but, as you are aware, there are some ongoing issues in relation to the project. In particular, there is an issue surrounding sustainable water supply. Despite the project having been handed over to the Afghan government, we have continued to monitor what is happening in relation to the project. We have had an assessment done by CARE in relation to what is needed—a gaps analysis—and we have also continued to liaise with the Afghan government to encourage them to try and sort out the issues. There are some land disputes and some disputes with the local community in relation to access to sustainable water supply.

Senator HANSON-YOUNG: How much money was earmarked for this project originally?

Ms Parker: I believe \$8 million has been spent on the project.

Senator HANSON-YOUNG: Eight million has been spent.

Ms Parker: Yes.

Senator HANSON-YOUNG: Are there any ongoing costs?

Ms Parker: No, not that I am aware of.

Senator HANSON-YOUNG: Do we know how many families who were genuinely earmarked for this project have been resettled in those facilities?

Ms Parker: There were eligibility criteria to be resettled in AliceGhan. I understand that out of the over 1,000 houses that have been built there are 250 houses that are currently occupied.

Senator HANSON-YOUNG: Out of a thousand.

Ms Parker: That is right.

Senator HANSON-YOUNG: Have the full thousand been built?

Ms Parker: That is what my notes indicate.

Senator HANSON-YOUNG: Who are occupying the remaining 750?

Ms Parker: They are empty. The occupancy rate is around 25 per cent.

Senator HANSON-YOUNG: Where do we go from here? Is it simply now just left to the Afghan government to decide what they want to do with those remaining 750 houses? If we have only filled 250 thus far, what is going to happen to them?

Ms Parker: As I said, we have been monitoring the situation and encouraging the Afghan government in conjunction with UNDP, who were undertaking the project, to try and sort out the issues regarding the water supply. As indicated in our response to the media issues that arose recently, we do not believe that we can do anything else in relation to the project until those fundamental water supply issues are sorted.

Senator HANSON-YOUNG: Are there any other projects that fit into the same category as AliceGhan?

Ms Parker: In terms of?

Senator HANSON-YOUNG: Resettlement programs: facilities that the department has spent money on that we are using. Is this a one-off or are there others?

Mr Metcalfe: I cannot think of any other facility of this nature.

Ms Parker: I cannot think of any others.

Senator HANSON-YOUNG: I want to jump back quickly to the issue relating to age determination. What is the training process for those officers involved in age determination interviews?

Mr McCairns: My colleagues in support care, if you remember, ran a pilot to see if this was a viable way to do it. That pilot, if my memory serves me right, proved there was about half-and-half over and under 18, as it were. That really set the framework for how you might go about doing that, so we learned an awful lot from that. My division and Mr Cross's branch actually run this at the moment. We send officers who are highly experienced in interviewing techniques and we use the training programs that we have developed internally. It is a very difficult area internationally, so there is a lot of reading around the subject. We look at information on it from the Australian Human Rights Commission, the ombudsman and, I suppose, global commentators. The concept of benefit of the doubt is very strong in this regard. If I could categorise the type of officer, it would be officers who have very good relationship management skills and understanding of the difficult situation of the clients. That would be the type of officer we would send to do that. They are quite highly graded officers, sometimes at the executive level.

Senator HANSON-YOUNG: How many do we have that have been trained in this process as a result of the pilot?

Mr McCairns: I do not know exactly how many we have.

Ms Wilson: We will have to take that on notice. Now that we are doing age determination processes in multiple places, we have trained a whole bunch of other people to share the load a bit. We will need to get an update on that.

Senator CASH: I am looking for updated statistics, if you have them here. In the year to date, how many IMAs arriving in Australia do so by flying in to Indonesia?

Ms Wilson: I think we gave you the most up-to-date statistics as part of your question on notice.

Dr Southern: I would like to clarify an earlier answer we gave to Senator Hanson-Young in relation to Indonesian crew in immigration detention. I would like to confirm that those 88 crew are in immigration detention, not other forms of correctional detention or anything like that. They are in a range of facilities. I have a breakdown of where they are: 10 adults and seven unaccompanied minors are on Christmas Island, 49 adults and 17 unaccompanied minors are in Darwin, one adult and two UAMs are in Sydney and one unaccompanied minor is in each of Melbourne and Perth. The minor crew remain in immigration detention while we do their age determination through the processes that we have described.

Senator CASH: In relation to section 501 visa cancellations, do you have any further updated figures for how many visas have been refused or cancelled by departmental officers using their delegated powers given by section 501 of the Migration Act in the year to date? How many has the minister cancelled or refused? How many have been considered by the department and the minister?

Mr Metcalfe: Section 501 comes under outcome 4.

[17:08]

CHAIR: As there are no further questions for outcome 3, we move on to outcome 4, Lawful stay of visa holders and access to citizenship rights for eligible people through promotion of visa compliance responsibilities, status resolution, citizenship acquisition integrity, case management, removal and detention, and policy advice and program design.

Mr Callanan: Your first question was about year-to-date cancellations by delegates. The answer is 88 as of 31 December.

Senator CASH: How many has the minister cancelled or refused?

Mr Allen: I would like to correct that: 88 is the total number cancelled; of those 17 were personally cancelled by the minister and the minister refused two of 58 visas refused.

Senator CASH: Do you have the figures of how many have been considered by the department and the minister?

Dr Southern: The number of cases being considered under section 501 at 31 December was 958 visa holders, so that it is consideration for cancellation; and 191 visa applicants, which would be for refusals. But I do not have the breakdown. They are all currently being considered by the department.

Senator CASH: Has the department prepared any submissions for the minister in relation to the refusal or cancellation of a visa under his section 501 powers?

Dr Southern: Yes, certainly in relation to those that he has cancelled or refused.

Senator CASH: Have you got the information there as to when those submissions were prepared and in relation to what cases?

Dr Southern: Not to hand. We would need to take that on notice.

Senator CASH: How many people subject to a section 501 cancellation remain in the Australian community? Is that the 958 plus 191?

Mr Metcalfe: No. I suspect that number would be people in prison undergoing a prison sentence and where we have commenced a process to consider whether we should cancel. It is certainly not people in the community.

Senator CASH: Do we have any remaining in the Australian community who are subject to a section 501 cancellation?

Dr Southern: The 958 cases being considered would be people who currently have visas and their visas have not been cancelled—they are being considered for cancellation. Of the 88 whose visas have been cancelled, again, I do not have a breakdown of those. Some of them would be in correctional facilities, some of them would be in our detention facilities awaiting removal—

Senator CASH: Can you get that breakdown?

Dr Southern: We can get that for you on notice.

Mr Metcalfe: It would be very unusual for a person whose visas has been cancelled under 501 on criminal grounds to be in the community.

Senator CASH: Hence the question. I just want to confirm.

Mr Metcalfe: We will take that on notice, but I think the answer is almost definitely zero.

Senator CASH: Moving onto outcome 4, during the Senate estimates in October 2011 we had a long discussion about whether and when the department provided costings to the government in relation to the costs of the new onshore processing policy, if you recall, including bridging visas and community detention. The advice that we were given was that the minister had been given broad advice about those costings and that the department provide us with a detailed follow-up. Are those costings now available to the committee and can you provide them to us?

Mr Metcalfe: I think they would be reflected in the additional estimates document. That is essentially the ons and offs that we discussed this morning in relation to the various measures would be contained within the PAES document. If you would like I could ask Mr Sheehan to join us again to answer any detailed questions you might have.

Senator CASH: Yes, please.

Mr Metcalfe: You were looking for a more detailed explanation of those costs. Let us see if Mr Sheehan or Ms Wilson can assist us in the process that has led us to the yellow book.

Mr Sheehan: I think we might start at the conversation we had this morning around the numbers that you quoted—around \$200 million for an increase as part of the budget process and then a number of 557, I think, which I have not been able to reconcile back to. But if we

can just start with the announcements as part of the MYEFO process. The increase in IMA funding is \$1.296 billion. Then there were a number of adjustments that were made as part of the operating costs for New Guinea—the offshore processing centre that were reduced; the Regional Protection Framework—the net amount for Malaysia; and in addition the return of funding for the humanitarian program, where we had budgeted for an additional 1,000 entrants. So the amount required for the department, after taking into consideration those adjustments, was \$564 million, but in addition there was an amount for the regional cooperation measure of about \$5,228,000, which, in terms of the reconciliation for the DIAC MYEFO adjustment, was \$570.033 million.

I thought I would try and reconcile the numbers back to our numbers, and then I will probably need to have a bit of a conversation about where the figure of \$559 million came from. In addition, the announcements as part of MYEFO included an increase in the arrival estimate for 450 per month. There was also a change in the model for the number of clients that we would have in general society as well, which is roughly six per cent for the 2011-12 financial year. In addition, in terms of funding now available for the humanitarian program, the reversal of capital works that was held in the contingency reserve was announced as part of the budget process and the whole-of-government fiscal impact was \$232 million, and including the regional cooperation measure it was \$230,300,000 net. I think there was some confusion about the amount for the department as opposed to the amount for the whole-of-government financial position that was announced as part of MYEFO.

I think that takes us back to the conversation of earlier this morning. I would like to understand how the number you have quoted, \$559 million—

Senator CASH: That was in relation to—

Ms Wilson: We think the first figure you quoted, from the MYEFO, of \$197 million, was probably the whole-of-government figure, which was the difference between the \$1.3 billion and the \$1.1 billion.

Senator CASH: And that was from the MYEFO, yes.

Ms Wilson: And that is a whole-of-government figure, whereas the numbers we are talking about are DIAC figures. I think in this morning's session we might have been jumping from whole-of-government to DIAC, so Mr Sheehan has just given you the DIAC figures.

Mr Sheehan: The difference between additional estimates and the MYEFO numbers in the estimate for the department for program 4.3, including depreciation, is \$179,762,000. That is related to an increase in the arrival estimates because of the increases that we have had in November and December, and also an increase in our overall occupancy rate.

Senator CASH: Can I go back to earlier this morning, when we were looking at page 51 of the portfolio additional estimates statement. When you look at outcome 4.3, it has been reduced from \$1.18 billion to \$739 million or thereabouts. It is stated that that was because of a change in policy to community detention and the use of bridging visas. We agreed that was, in round figures, almost \$400 million in savings. Now that we are in this outcome, what assumptions and data is that prediction based on?

Ms Wilson: I will start and I am sure that Mr Sheehan will jump in. There is an assumption that bridging visas only really started to kick in towards December-January this financial year. The number of people out in the community will be about six per cent of the

detention population. In 2012-13, that jumps to about 30 per cent, because we have had time to build up the movement of people into the community. One of the reasons for the decline is that a significant cohort is shifting from held detention to being in the community. The costs associated with people being in the community are lower. We do not provide accommodation for them. They get provided 89 per cent of Centrelink benefit if they are unable to find work and are vulnerable.

Senator CASH: Detention costs to DIAC are lower, but in terms of Centrelink they are now in receipt of a benefit and the cost to the Centrelink may well be higher.

Ms Wilson: It is not a Centrelink benefit; it is an asylum seeker assistance program through DIAC. That is also costed in the numbers already. There will be a proportion who are vulnerable who will need to access asylum seeker assistance.

Senator CASH: Is there anything else the \$400 million savings is predicated on?

Ms Wilson: I guess the basis is that people have work rights and there is an assumption that, when people are connected to their support, they will be able to go and find opportunities—find employment and accommodation—and the bulk of the group will be able to sustain themselves over time.

Senator CASH: What happens if they do not get work?

Ms Wilson: As I said, there are supports available for vulnerable clients until they can get on their feet.

Senator CASH: How long can they be on the support?

Ms Wilson: I might need to get some of my colleagues involved in the bridging visa program to the table to answer some of these questions.

Mr Moorhouse: It depends on the form of support that they are claiming. The initial intensive support that is required through CAS for a transitional period of six weeks. The ongoing support, if required, through the asylum seeker assistance scheme can go on for longer—it can be ongoing if it is required—but, as my colleagues have indicated, it is only if the person actually requires the assistance. If they are working or if they have their own assets, then they are not available for asylum seeker assistance scheme.

Senator CASH: What is your assumption about how many of those on bridging visas will actually get work? We are talking about a very significant saving here. A number of assumptions are built in to come to the figure of \$400 million. What I would like to do is drill down into the detail of where you say the \$400 million savings are going to be found. What is the assumption about how many of those on bridging visas will actually get work and, therefore, that is reflected in the savings?

Ms Wilson: We might have to come back to you on that, Senator. We have broad numbers but not the proportion.

Senator CASH: What do you have in terms of broad numbers? What is the total number of people we are talking about here? For example, you said that 30 per cent would be on bridging visas.

Ms Wilson: In 2012-13.

Senator CASH: What was the total figure?

Ms Wilson: Sorry—the total figure of?

Senator CASH: What is that 30 per cent?

Ms Wilson: Of the people in detention?

Senator CASH: Yes. What is the total figure?

Ms Wilson: You want that level of detail. We do not have that in front of us on the table, so we will have to come back to you, Senator.

Mr Moorhouse: The costings would have been based on the projected arrivals plus the number of people currently in detention. Taking into account the people in detention and the projected arrival rate of 450 a month—the costings would have been done on the basis.

Senator CASH: In terms of the projected arrival rate of 450 a month, how are we tracking?

Mr Metcalfe: I am sure we will talk about arrival rates at some stage, but we had a big month in November and the tragic month in December.

Senator CASH: So how many did we get in November?

Mr Metcalfe: It was just under 1,000. In December there were fewer than that.

Senator CASH: Above 450?

Mr Metcalfe: No, December was 693, and January was 310.

Senator CASH: So four, eight, 12, 13, 50 compared to over 2,000. So your assumptions are based on the lower figure, not the actual figure.

Mr Metcalfe: Our assumptions are based on what we believe is a reasonable average. You and I have spent hours talking about the fact we do not have crystal balls and that we have to come up with a sensible figure, and I think those last three months show you that this figure fluctuates dramatically.

Senator CASH: So it is not a sensible figure, in other words.

Mr Metcalfe: It is the—how can I describe this nicely?—the least non-sensible figure. Any figure—

Senator CASH: That is what we have been reduced to!

Mr Metcalfe: I do not talk to the people-smugglers about what is coming our way—

Senator CASH: But that is what we have been reduced to.

Mr Metcalfe: We have been through that over and over again. All I am saying is that—

Senator CASH: Can I ask how you came to 450?

Mr Metcalfe: That was a—

Ms Wilson: It was the average arrivals over the last 30 months. I should say, to clarify that conversation, that every time we do an estimates update, the part of the year that has lapsed, for additional estimates, the actual arrival number to 31 December, which was 2,945, is used as the base and the rest of the six months for the financial year is included at 450 a month. So we try and get accuracy at each update by updating the base to reflect the actual arrivals.

Senator CASH: Now I am confused because I thought at the last estimates we had been told that 600 a month was that prediction and now I am being told it is a prediction of 450 a

month. On either prediction, it has been exceeded at least in November and December. Is it 600 per month or 450 per month?

Mr Metcalfe: The 600 figure was a figure that came into the public domain as a result of comments that I made when I indicated that we could see arrivals up to that level because that is the figure that we had seen at around the same time the previous year. But of course the numbers fluctuate dramatically—

Senator CASH: So 1,000 in November, 693 in December—

Mr Metcalfe: Yes, but in September we had 329 and in August we had 290. So the numbers do move around. In January this year we had 310. So that figure that has been used for estimation purposes is the best figure that we can provide.

Senator CASH: Going back to the 30 per cent of the total that you said would be on bridging visas, where will the others be?

Ms Wilson: They will be in a range of community detention and held detention.

Senator CASH: And the full 70 per cent will be in a range of community detention and what was the other—

Ms Wilson: Held detention, in immigration detention facilities.

Mr Metcalfe: So 100 per cent are in detention facilities, in community detention or on bridging visas.

Senator CASH: So we have 30 per cent on bridging visas—

Mr Metcalfe: The estimation is 30 per cent on bridging visas.

Senator CASH: How many will be held in community detention?

Mr Sheehan: I do not have that number with me. We just have an aggregate of held detention and community detention.

Senator CASH: So what is the aggregate of held detention and community detention?

Mr Metcalfe: It is 70 per cent.

Senator CASH: And why don't we have that figure here, given that it is integral to what we are talking about today?

Ms Wilson: I will confirm this, but my understanding is that approximately 20 per cent will be in community detention.

Mr Metcalfe: We could confirm that for you, Senator.

Senator CASH: That would be appreciated, given that those figures are integral to outcome 4.3. So 30 per cent are on bridging visas, 20 per cent are in community detention and the balance are in held detention.

Ms Wilson: Detention facilities.

Senator CASH: In relation to the 450 that are arriving each month, how many are actually going out of the system each month?

Mr Metcalfe: The 450 are not arriving each month. The number that arrive each month are the number that arrive each month. Of the people who have arrived, what is happening to them? We can attempt to answer that question. I gave some advice in my opening statement this morning about the number of people who have moved into community detention.

Senator CASH: Could I reconfirm it under this outcome?

Mr Metcalfe: Yes. And, of the number of people who have been granted bridging visas so far, it is acknowledging that that is a new program and it is ramping up. If you would like information on the number of people who have been granted bridging visas so far, we can do that. On the number of people in community detention, we can do that as well.

Mr Kelly: 257 bridging visas have been granted since the announcement. 150 have been granted in 2012—so in January—and 107 were granted prior to the end of the last calendar year.

Senator CASH: The issue that I have is that, in relation to the assumptions we are talking about—the decrease of \$400 million for 2011-12 and 2012-13—you are saying that it is based on the assumption of 450 arriving each month. That is how you got to it. Therefore I am assuming you also would have to have forecast how many you believe will be exiting each month.

Mr Sheehan: Exiting full detention?

Senator CASH: Correct—into community detention.

Mr Metcalfe: I think what Senator Cash is getting to is that the cost is a factor of length of stay and getting out, which is the point Mr Moorehouse made before.

Senator CASH: Correct.

Mr Metcalfe: So the question we are being asked is what assumptions there are about people exiting the system. Presumably they are being granted a visa or leaving Australia.

Mr Sheehan: We will see if we can get that number for you, Senator.

Mr Metcalfe: In responding to that we answered the question about bridging visas, but did you want information about community detention as well? That was one of the other factors that was implicit in these costings.

Senator CASH: In the terminology I am using, which might be slightly different from the terminology you are using, 'exiting' means leaving the system, bridging visas or otherwise, released or returned.

Mr Metcalfe: I will get the accountants to explain their assumptions. To my way of describing it, there are people who enter, stay in and leave held detention in detention centres, which is a high-cost area.

Senator CASH: Correct.

Mr Metcalfe: From there they can either leave Australia, get a protection visa or enter into the community detention or bridging visa systems in the community.

Senator CASH: And that is not leaving the system.

Mr Metcalfe: And that is still within the system where we are responsible for costs. Ms Pope can explain the numbers and issues around that, and Mr Sheehan can explain the assumptions about how the costs are derived around this area.

Senator CASH: But a person leaving the system is a person who has been visa-ed out of the system or returned?

Mr Metcalfe: That is correct. And within the system there are a variety of circumstances people find themselves in, whether it is a high-security detention centre, an immigration

transit centre, community detention, a bridging visa et cetera. All of those have more or less cost depending upon their circumstances.

Senator CASH: So how many people are actually leaving the system each month?

Mr Metcalfe: That depends on the number of protection visas being granted. We can talk about that. We have already talked about the number of people leaving Australia, which at this stage is not great, because of the fact that we are still working through the judicial and merits review processes.

Senator CASH: Do you have a forecast of the number of people who you believe will leave the system?

Mr Sheehan: I can say that the estimate is based on 5,645 arrivals for the year, which is, in effect, based on the number of arrivals to the end of December plus 450 for each month for January to June.

Senator CASH: And what does that give us in total?

Mr Sheehan: The arrivals that have occurred to the end of December were 2,945. Then there were 450 a month after that, which is 2,700, which will get you 5,645. The average occupancy that we have modelled for the year is around 5,720. We are budgeting for almost the same number who are entering the system to leave.

Senator CASH: To leave the system?

Mr Sheehan: The average occupancy rate during the year is 5,720. So it will be within 85 clients. That is what we have budgeted for as an estimate.

Ms Wilson: There is a flow-through of people moving from detention facilities out to CD and bridging visas and out to visa grants.

Senator CASH: In terms of the estimated number of people on average in the system, how many do you estimate are going to be in the system in 2012-13 compared to 2011-12? Have you forecast that? You would have to have; you have figures here.

Mr Metcalfe: Let me try to help, Senator. I think your question is: how is that 2013-14 estimate built up?

Senator CASH: Yes: in-flows and out-flows.

Mr Metcalfe: You want to know how we came up with that figure.

Senator CASH: Yes.

Mr Sheehan: Obviously we have 450 arrivals per month in 1213, which is 5,400.

Senator CASH: That is the assumption.

Mr Sheehan: That is the assumption based on the last 30 months average per month.

Senator CASH: Why did you choose 30 months?

Ms Wilson: That was the start of all the activity for this sort of cycle of arrivals. So, in consultation with a range of government agencies that was determined to be the—

Senator CASH: And 30 months takes us back to what date?

Mr Sheehan: It would be June 2009. The average occupancy in 2013 is just under 6,000 or so.

Senator CASH: So the average occupancy for 2011-12—

Mr Sheehan: The average number in detention is just under 6,000.

Senator CASH: And in 2012-13?

Mr Sheehan: In 2012-13.

Senator CASH: Sorry, I am trying to keep these figures in my head. So in 2012-13 it is just under 6,000.

Mr Sheehan: In detention and with bridging visas—the full cohort in effect. That is what you are looking for.

Senator CASH: Compare that with 2011-12. Was that the 5,720?

Mr Sheehan: The average occupancy is 5,720.

Senator CASH: So there is an increase in 2012-13?

Mr Sheehan: Yes; but, as we said earlier, with 30 per cent of our client base in general society as opposed to in held detention there is a different cost structure.

Senator CASH: In terms of the figure for 2012-13 and the fact that you have indicated that you will be able to find almost \$400 million in savings, what level of guarantee do you put on that figure, given that historically the department has had to go, cap in hand, to the parliament and ask for more money?

Mr Sheehan: As we have spoken about many times, it is quite a complex arrangement in terms of the numbers of different drivers we have to the formula—whether it is about the health of the client, the security assessments, the supporting costs associated with particular cohorts.

Ms Wilson: And the composition of arrivals.

Mr Sheehan: It is our best estimate at this point.

Senator CASH: It is a best estimate at this point and the reality is that it could be like other estimates that we—

Mr Sheehan: It could be lower; it could be higher.

Senator CASH: It could be lower in relation to the 750 IMAs!

Senator Lundy: Can I say, Senator Cash, if the opposition were to decide to do the responsible thing and support the government's legislation we would not need to be exploring these costs because the numbers would be very different and there would not be IMAs arriving. So you bear a great deal of responsibility as a member of the opposition—

Senator CASH: How many times are you going to say that today, seriously?

Senator Lundy: Every time you go through the costs and make the implication that somehow this government—

Senator CASH: I think we worked out today that—

Senator Lundy: is not doing its utmost for the welfare of IMAs arriving—

Senator CASH: your admission was that the costs had increased since they abolished the Pacific solution.

CHAIR: Order! Senator Cash, let Senator Lundy finish her sentence and then you can have your go.

Senator Lundy: It is not the first time Senator Cash has tried to speak over me, so thank you, Chair.

CHAIR: That is exactly right. It is not the first time I have called her to order either.

Senator Lundy: My point is one that I have made before today: in the exploration of these costs it is of course within the power of the opposition to choose to support the government's bills and proposal for the Malaysia arrangement. They choose not to do so and yet spend hours exploring the costs associated with managing IMAs as they keep arriving in Australia. I think it is incumbent upon me as a member of the government to point out that this line of questioning only serves to underline the level of responsibility that the opposition has for the increasing numbers of IMAs.

CHAIR: Senator Cash, do you have more questions?

Senator CASH: If the Labor Party brings the bill before the parliament, we would like to watch the left of the Labor Party actually vote for it. We have said that consistently. We would like to watch your alliance partners vote for it.

Senator Lundy: The government has written to the opposition asking them to come to the party to talk about our proposals to manage IMAs, and they consistently refuse. So, any jibes around—

Senator CASH: I think you will find that Mr Morrison and Mr Bowen did have meetings—

CHAIR: Let's move on to questions—

Senator CASH: prior to Christmas.

CHAIR: Or we can have a very early dinner break.

Senator CASH: Mr Sheehan, how many will actually be on bridging visas in 2011-12? Is that the 5,700—that is 30 per cent of—no, that is in community detention—how many will be on bridging visas until 2011-12?

Ms Wilson: The 30 per cent was about 1,213.

Mr Sheehan: 1,213 is 30 per cent.

Senator CASH: And in 2011-12?

Mr Sheehan: We said that there was about six per cent; I think that was the estimate.

Senator CASH: So six per cent of the 5,720? Six per cent of the total figure?

Ms Wilson: Yes.

Senator CASH: And 30 per cent of the total figure in 2012-13?

Mr Sheehan: This is based on costs?

Senator CASH: Yes.

Mr Sheehan: Yes. The conversation is based on percentage of our costs and not the percentage of clients. I think I need to make that clear.

Mr Metcalfe: It is an important point.

Senator CASH: I want to turn specifically to community detention now. In answer to question SE110320, the department stated that the cost of the program for the financial year to

31 October 2011 was \$25.4 million. What is the estimated cost to the end of the financial year?

Ms Pope: Senator, I have the figures for 2011-12 to date as at 31 December, and then my colleagues might be able to assist with the remainder of the year. To date the cost is \$50.8 million, comprising \$48.27 million for administrative expenses—and I can give you a breakdown of where those costs accrue if you are interested—and \$2.6 million for departmental expenses.

Senator CASH: Do we have a forecast for this financial year? Can I also ask: what is the average occupancy over this period in community detention?

Ms Pope: I cannot give you an accurate figure but I can give you an indication.

Senator CASH: Could you give me an indication—and in relation to the \$50.8 million?

Ms Pope: Yes. The current occupation is 1,576.

Senator CASH: Is that as at today?

Ms Pope: Yes, that includes 1,047 adults and 529 children. Of those children, 133 are unaccompanied minors. The number has fluctuated between, say, 1,450 and 1,500 over a period of six months. I could probably—

Senator CASH: What I might do is get you to take on notice to do a breakdown of the numbers in community detention as you broke it down for me just then.

Ms Pope: Yes, I can do that.

Senator CASH: Did we manage to get the figure for the estimated cost to the end of the financial year?

Ms Wilson: We have an approximate figure of \$150 million for 2011-12. I say it is an approximate figure also because we need to look at how people stream to community detention as opposed to bridging visas as well. As we talked about earlier, and I am sure we will talk about later, bridging visas started taking effect in December, so some of the cohort that were going to community detention might well go to bridging visas, and we will need to look at how those clients stream into those different programs.

Senator CASH: Does the figure of \$150 million include departmental and administered expenses?

Ms Wilson: Yes, it does.

Senator CASH: So it is a total figure. In expanding the community detention program, how many dwellings have been acquired and/or accessed?

Ms Pope: We rent a range of properties. The number is around 550 at the moment. I would have to take on notice the exact number of properties, but that is the ballpark.

Senator CASH: So it is 550 to date?

Ms Pope: Yes. For the most part, they are houses rented on the open market. They range anywhere from two-bedroom to four- or five-bedroom houses. The five-bedroom houses are suitable for a group of unaccompanied minors with a carer, for example. We also have properties that have been made available to us by faith-based organisations.

Senator CASH: Is that within the 550 or on top of it?

Ms Pope: They would be included in that number. They are a fairly small proportion.

Senator CASH: Do you pay rent on them?

Ms Pope: Yes, we do—at market rates. Quite a bit of that accommodation was not being used for housing when it was offered to us. It has been brought onto the property market, in effect, by the use of community detention.

Senator CASH: You have 550 or thereabouts at the moment. How many more do you anticipate you will need in this financial year to 30 June?

Ms Pope: That is a difficult question to answer because it depends on the number of permanent visa grants. When people are granted a visa they move—

Senator CASH: I am assuming you are actively looking for rental properties. You must have some idea as to how many you are going to need to access.

Ms Pope: As I said, it has a lot to do with turnover—the numbers that leave and therefore create vacancies, which we replace with the next family or the next group of unaccompanied minors. With the unaccompanied minors, each time one is granted a visa—and there have been a large number of visa grants to people in community detention over time; 1,345 to date have moved through community detention, and that includes 220 unaccompanied minors—we place them in a household with somebody else who is waiting for a placement and we try to manage that very carefully to have the flow-through happening but not have more houses than we can fill. So it is not a straightforward question of me estimating how many properties I think I might need. I could tell you, for those remaining in detention, how many properties I would need if I was going to hire them new to fill with the people who are waiting, but it is not quite as straightforward as that.

Senator CASH: Where are the 550 located? Also, what is the rental cost?

Ms Pope: I can give you that figure first because I know exactly where it is. We rent properties in all states and territories other than the Northern Territory.

Senator CASH: Why are there none in the Northern Territory?

Ms Pope: It is because detention makes a reasonably high call on the community and property in the Northern Territory already. Also, rental rates are quite high, occupancy is pretty low and there are a limited number of services for people in the community. For those reasons, we do not place anyone in the Northern Territory. This is at this stage, because in the future it might be viable.

Senator CASH: It may be that in the future you have no choice but to.

Ms Pope: Yes. We have one case where we have been considering it because that might be the best place for this particular person. That would be a one-off arrangement. In Queensland the average that we pay per week is \$383. I can give you the Real Estate Institute of Australia published average for each of the cities. The published average is \$350 for Brisbane. In New South Wales we pay on average \$416, and the published average is \$400. I should say a couple of things here. One is that we have higher proportions of single people and large families, and you often have to pay quite a higher rental price at those ends of the market. Secondly, these numbers change all the time.

Senator CASH: So you are not locked in, and I will let you go through that. I am assuming that you are locked into a rental agreement for some time, though.

Ms Pope: Yes, normally six to 12 months.

Senator CASH: Is there provision in the rental agreement within that six to 12 months for the rent to increase or decrease?

Ms Pope: I would assume so, but I am not sure. The Red Cross rents the properties on our behalf so I am not across each rental agreement but it would be the standard as operates in the market in general.

Senator CASH: So in Queensland it is \$383, and in New South Wales it is \$416.

Ms Pope: In the ACT it is \$458, and the published average is \$450. In Victoria it is \$343, and the published average is \$350. In Tasmania it is \$272, and the published average is \$360. In South Australia it is \$341, and the published average is \$320. In WA it is \$358, and the published average is \$390.

Senator CASH: Are you able to provide me with a breakdown by state and capital city as to how many properties you have?

Ms Pope: I would have to take that on notice.

Senator CASH: Can you break it down even further to post code? There is only 550 of them.

Ms Pope: We are a little bit careful about that. We have provided publicly suburbs where we place people. If I search through my notes a bit harder I can find that. I have a list here of the number of addresses we have in each state and territory if that would be helpful. That would give you a sense of the size of the program in each state and territory.

Senator CASH: I am happy for you to provide that on notice if that is easier.

Ms Pope: I have that here. In the ACT we have 16 addresses. This would be reasonably recent—these change every day, pretty much. In New South Wales we have 97 addresses, in Queensland 115, in South Australia 63, in Tasmania five, in Victoria 118, and in Western Australia 62. I think the more recent numbers would be a bit higher than that. But that is the order of size. So Victoria is the biggest followed closely by Queensland and then New South Wales.

Senator CASH: In terms of the range of rent paid, what is the highest you pay in each state and what is the lowest you pay in each state? Put aside the average; what is the highest and what is the lowest?

Ms Pope: I would have to take that on notice. I have a list of the suburbs in which we have people placed nationally. I will table it rather than read it out.

Senator CASH: Thank you. You said that it is the responsibility of the Red Cross to administer the rental accommodation. How much is the Red Cross is being funded to pay specifically for rent for asylum seekers in community detention? Also, there is the rent per month; are there any additional expenses, for example, a bond?

Ms Pope: Yes, we do pay a bond where it is applicable.

Senator CASH: Where it is applicable?

Ms Pope: Wherever the person renting the property requires a bond—and I think that is pretty standard—we would pay the bond and that would be recouped by the Red Cross. We

now have a number of other service providers assisting us, so at the end of the lease they would recoup the bond.

Senator CASH: Have you ever had circumstances where the bond is not recouped?

Ms Pope: Not to my knowledge; we may have done.

Senator CASH: Could you find that out for me?

Ms Pope: Yes, I can take that on notice. I have figures for the period between 1 July 2011 and December 2011. This is where we get the breakdown for the costs of the program. I gave you \$48.27 million as the overall cost. In relation to accommodation rental, \$2.51 million. I do not think that can be right, because it is the breakdown of a much bigger number and it does not add up. I think I had best take it on notice, because the numbers I have here do not make sense.

Senator CASH: I appreciate that. I turn to the purchasing arrangements of the department. Are these homes fully furnished?

Ms Pope: It depends. Yes, once people are placed in them, but the way it works is that Red Cross or other service providers rent the property and then they purchase a housing package to furnish it specified in our operating framework; with a certain number of beds, sofas and what have you to furnish the property.

Senator CASH: The Red Cross find you a home. The Red Cross then, pursuant to this agreement, go out and get a housing package. They have a document which sets out what they can purchase by way of a housing package.

Ms Pope: That is right. It varies according to family composition. If there is a baby, that would change the composition of the housing package.

Senator CASH: Do you have a copy of the housing package document that the Red Cross is provided with?

Ms Pope: I do not. It is in our operating framework and I can provide an extract of that to you on notice.

Senator CASH: Can you take me through what is in the housing package?

Ms Pope: Broadly speaking, it is what is required to make a household function.

Senator CASH: What would that be?

Ms Pope: Beds, bedside tables, lamps, television, kitchen table and chairs, a sofa—it is a pretty basic set of household goods.

Senator CASH: Microwave oven?

Ms Pope: Yes.

Senator CASH: How many TVs are allowed per dwelling?

Ms Pope: I cannot answer that. I would assume one, but I would have to take that on notice.

Senator CASH: I can tell you I have been to Villawood and there was more than one plasma television in the detention there—in the homes.

Ms Pope: That is a facility for a larger number of people.

Senator CASH: It was for one family; they had two plasma televisions.

Ms Pope: I cannot comment, but I can get for you the requirement for community detention.

Senator CASH: Washing machines?

Ms Pope: Yes.

Senator CASH: Dishwasher?

Ms Pope: I do not know; I am not sure of that level of detail. As I said, I can table for you the household formation package as specified by the department in our operating framework. I do not have it with me though.

Senator CASH: Is it a document that someone can easily obtain?

Ms Pope: Potentially, yes.

Senator CASH: Could someone get that for us now so we can discuss it?

Ms Pope: Yes, my staff are probably doing that right away.

Senator CASH: What is the average cost of a household package?

Ms Pope: I would have to take that on notice; I do not know.

Senator CASH: Do you have any idea? Are you allowed to spend \$5000, \$10,000?

Ms Pope: I am not certain; I would have to take that on notice.

Senator CASH: Is there someone here who can get that information? I would like to pursue this.

Ms Pope: I can ask my staff in the department who are monitoring this and I am sure they will be on to it right away.

Senator CASH: Are there any guidelines surrounding where the household package items must be purchased? For example, do you have a contract with Harvey Norman?

Ms Pope: I do not know. The Red Cross purchase that as efficiently as they are able to.

Senator CASH: What guidelines are there surrounding 'as efficiently as they are able to'?

Ms Pope: I really need the extract from the operational framework that I am offering to table in order to answer the questions properly. That is a level of detail I do not have with me today.

Mr Metcalfe: We could try and get that here at the dinner break.

Senator CASH: I would appreciate that, thank you, and then we can pursue it. Who is responsible for the installation of household goods et cetera, including labour costs? Is that part of the money that the Red Cross is given?

Ms Pope: When you say installation, do you mean the delivery of the goods—

Senator CASH: Correct, when they install the washing machine and the dishwasher.

Ms Pope: Yes, that would be included in the costs of setting up a functioning household.

Senator CASH: Who is responsible for the payment of connection fees for utilities?

Ms Pope: Again it is a level of detail I do not have, but the clients themselves, from the allowance that they are provided with, are required to pay the cost of utilities on an ongoing basis. I would expect that we would pay the cost of the connection of those utilities so that, again, we are presenting them with a functioning household—in other words, with phone,

electricity and so on connected. And we would not ordinarily rent a house that is not already in that state, though on occasion there might be a house that has to be reconnected.

Senator CASH: Are there any boundaries placed on the use of the telephone? May a person make unlimited international calls?

Ms Pope: No, there are restrictions and the main one is that they have to pay for it.

Senator CASH: Is there any subsidisation of those costs? For example, you said that the client has to pay for the electricity. Is there any subsidisation or is it given on the basis that that is what Western Power charges; that is what you pay?

Ms Pope: There is no subsidisation in the way that you are describing it, but the people living in community detention are provided with an allowance because they are not allowed to work, so they have to budget from within the allowance for their expenditure on food, utilities and other expenses.

Senator CASH: What happens if they spend over that allowance?

Ms Pope: There are a range of financial counselling arrangements in place which the clients have access to, and their Red Cross caseworkers would be working with them to set up and establish a budget. That is part of the work that is done in the early period of settling somebody into community detention.

Senator CASH: Do they ultimately have to find the money, though, or will the government or the Red Cross make up the shortfall?

Ms Pope: I am not aware of a case where we have had to make up a shortfall, but I understand the point you are making: given that they have a fixed income that we are providing, at what point would we rescue them, so to speak, if they get themselves into difficulty? As I said, I have not come across this situation before, but I would expect we would arrange a plan whereby they can repay that at a reasonable cost per month that they can afford out of the allowance that they are paid. If it became an ongoing problem it may even constitute a reason to consider whether they should remain in community detention or not.

Senator CASH: Are asylum seekers themselves consulted as to what they would like in the dwelling?

Ms Pope: No, not in terms of a standard household formation package.

Senator CASH: What are they consulted on then? Are they consulted on anything?

Ms Pope: What I was going to say was that, when they are in the house themselves, they can make decisions as a family about how they spend their money, and that might be to supplement elements of furnishing or utensils or whatever they might like in their property. The same goes for households of unaccompanied minors or single adult men. They can choose to pool their resources to purchase items to furnish the house in the way that they see fit, but the standard household formation package does not involve any consultation with clients.

Senator CASH: Is there a requirement for the properties to have air conditioning or heating?

Ms Pope: No. That would be based on whatever the standards are for renting properties in whatever state or territory they happen to be in.

Senator CASH: What would you happen when you get a situation where someone does have air conditioning or heating and someone in the same state does not? How would that be rectified?

Ms Pope: Again, that has not been drawn to my attention and I am not aware of any issues with that. Again, I understand where you are going: is there an element of self-determination and am I just stuck with whatever property you put me in? We look at properties for suitability in terms of any physical disabilities or need to access health services. We hope to provide some proximity to relatives, so if they have a relative in Victoria we would try to place them in that same state but not necessarily next door or even in the same suburb. Basically, finding accommodation is quite challenging. The clients do not have a choice about which house they get, how it looks or whether it is air-conditioned or not, and so on. I am not aware of any complaints that have come as far as us with regard to: 'Why has so and so, who is in community detention, got air-conditioning and I haven't?'

Senator Lundy: Senator Cash, have you ever received complaints?

Senator CASH: No, not personally. What is the cost of the allowance for people in community detention?

Ms Pope: I can get the figure for you. Again, I will do it on notice because I am concerned about the figures that I have been provided with. It is the number that we have discussed before, which is that they would be eligible for 89 per cent of the benefit if they were in the community.

Senator CASH: In the event that you are unable to get me the information on the household package, could I have you take on notice to supply a complete inventory of all household goods, including brand names, that have been purchased and installed under the community detention program and disaggregated costs of machinery goods and the cost of installation, work and labour?

Ms Pope: I think that would be very difficult and time-consuming, considering the number of properties and the range of set-up environments that we would have done the work in. I do not know that we would have the figures down to that level of detail.

Mr Metcalfe: I think that would be information held by the Red Cross as well.

Ms Pope: It would be—yes.

Senator CASH: You do not require the Red Cross to report back to you?

Mr Metcalfe: We essentially provide them with a requirement as to what the package should be, but the level of detail you have asked for—brand, installation costs et cetera—would vary across the different households.

Senator CASH: What I am hoping to ensure is that it is being purchased in a cost-effective manner.

Mr Metcalfe: I would hope that we could find another way to answer your question, because, even if we were to provide you with the date, brand name and date of installation, it would be a very large job for you to then see whether you could have got a better price on that day at that location. At a more aggregate level, as to how we satisfy ourselves that Red Cross is in fact purchasing prudently, we are certainly not expecting that they are purchasing luxury items or expensive items—that they are doing so in a prudent and reasonable manner.

Ms Pope: And they would be buying in bulk, so there would be—

Senator CASH: Exactly. So who does the Red Cross have the contract with? Is there a bulk contract with Harvey Norman?

Mr Metcalfe: Why don't we describe how they do that and, in providing that information to you, seek to provide you with advice as to how value for money is being assured through the process? I would be very concerned: some staff are working very hard on trying to actually help people and would spend days and weeks trying to find out whether we got a Simpson dishwasher or a Westinghouse dishwasher.

Senator CASH: In saying that, with all due respect, it is taxpayers' money and taxpayers are entitled to know exactly how their money is being spent and whether or not it is being spent in the most cost-effective manner.

Mr Metcalfe: And I am also entitled to make an assessment as to whether it would be an unreasonable diversion of resources to answer such a detailed question. We will endeavour to assist you in the way I have described.

Senator Lundy: Could I just check again: do you have any cause of concern or any complaints about Red Cross's handling of this? You keep mentioning Harvey Norman and I am not sure whether you think that is a good idea or whether you have a problem with Harvey Norman. It would be useful—

Senator CASH: No, I do not have any problem with Harvey Norman.

Senator Lundy: for departmental officials to understand—

Senator CASH: Harvey Norman springs to mind because I think that Harvey Norman, in relation to the set-top boxes, said that he could do it at a considerably cheaper price than the government had decided it could do. So Harvey Norman does bring to mind as potentially having the ability to provide a bulk contract to the government, certainly in relation to the set-top boxes. That was a very clear example of where the government—

Senator Lundy: I really appreciate your interest in this, because obviously the welfare of people in community detention is a concern to the government—

Senator CASH: Absolutely. I am also concerned about the spending of taxpayers' money, though.

Senator Lundy: Sure, I understand that. I presume your line of questioning is to make sure that the standards are upheld.

Senator CASH: To ensure that taxpayers' money is spent effectively.

Mr Metcalfe: Senator Cash, I would hope that after the dinner break we could come back and give you the information about the household package and the sort of material that is provided, and whatever. I think it will be a bed, a table, some chairs—what people need to live.

Senator CASH: Can you provide an inventory?

Mr Metcalfe: As Ms Pope has indicated, the inventory will vary by house, depending upon in-built fixtures, the size of the house et cetera.

Ms Pope: The number of occupants.

Mr Metcalfe: Let's get that document. I suspect that will allow us to continue the conversation in terms of any detail.

CHAIR: No doubt, Mr Metcalfe, it is similar to the furniture and the provision of goods that we have seen at community-based detention centres we have been through during the inquiry we have held with the select committee into detention. Is that right?

Mr Metcalfe: Yes.

CHAIR: So is that the kind of furniture that the Red Cross also purchases?

Mr Metcalfe: We are certainly happy to provide you with as much information as we can. We are, of course, concerned about value for money, but if I can find a way to deal with that in an aggregate manner I think it would allow a question to be answered with it being an unreasonable cost to the taxpayer.

Senator CASH: Are the costs for this program capital or recurrent costs?

Mr Sheehan: They are recurrent costs.

Senator CASH: You said before that televisions form part of the household package. What about computers?

Ms Pope: Computers are provided for the unaccompanied minors. There is one per household and there are rostering arrangements to share the time on it.

Senator CASH: In terms of the ongoing repair and maintenance costs required for each dwelling, who has been contracted or engaged to perform those tasks?

Ms Pope: I do not think that there is one overall provider. The Red Cross would be working with the owners and real estate agents from whom they rent the properties. That would be a wide range of different organisations.

Senator CASH: Do we have an estimate of costs for, say, the last six months of the repair and maintenance costs overall?

Ms Pope: I do not have those with me. They would be costs that would be covered as part of the cost of maintaining accommodation from the Red Cross. I am not sure whether they are broken down by initial lease and any maintenance costs but I can take that on notice.

Senator CASH: If you could take that on notice, thank you. As there are unaccompanied minors using the computers, is there an internet policy that applies to their use?

Ms Pope: Yes, there is. I can provide that to you on notice.

Senator CASH: If you could, thank you. We have talked about this at previous estimates: are they entitled to video games or consoles et cetera?

Ms Pope: I would have to take that on notice. I am not sure about that.

Senator CASH: The Red Cross is contracted to go and locate the accommodation. How does the department satisfy itself that the accommodation is indeed suitable accommodation?

Ms Pope: Like in the household formation package, we have a setting out of the standard of property that we expect in the sense that it is safe, clean, near public transport and services that the clients would need to access, and so on. We are implementing a quality assurance program and have visited properties. For example, we visit a number of addresses that we specify to see whether we are satisfied. Where we have had complaints—and there have been some—we have inspected properties and if we have found them to not be satisfactory then we

have asked the Red Cross to terminate the lease and move clients into other properties. There have been a few instances—

Senator CASH: What would be the nature of those complaints?

Ms Pope: In one where I authorised the family to move there was a fair bit of mould on the walls and concern that the property was cold. The curtains were fairly thin and the mould in the bathroom, I thought, was unacceptable, so we moved the family from that house. The standard that my staff and I talk about is if you would live in it as a poor university student. That is probably hitting about the right mark. We do not aim to be at the very bottom of the housing market for two reasons. The first is duty of care and the second is that we are trying to leave those properties for people trying to enter the housing market from homelessness. We are pitching it slightly above that very bottom point, but I found myself maybe somewhat naïve about the sorts of properties that real estate agents will actually put on the market and what they look like, so there have been a few properties that we have vacated.

Mr Metcalfe: We are also conscious, in the other outcome relating to the provision of accommodation under the humanitarian settlement program, of some problems we noticed in the Newcastle area. There is a separate report on that; we have discussed that before. That lesson to us is being taken into account in the management of this contract as well as the refugee IHMS contract.

Senator CASH: In answer to question SE_11/0320 from the October estimates the department stated:

Once the program stabilises, calculations of average costs per client can be more meaningfully derived.

What is then the cost per person per day for families and unaccompanied minors in community detention? Has the program stabilised?

Mr Sheehan: I do not have that information with me. I think we are still trying to work our way through what the initial setup costs are for the cohort, and trying to separate those costs from the ongoing costs, day to day.

Ms Pope: Senator, you were asking earlier how many more houses I will need to rent. As you pointed out, the bond, the cost of the housing package and so on are the one-off setup costs. The more of those that we have to do the more there are setup costs included in the overall figure. We have not yet reached the point where we have sufficient property to accommodate everyone, and the rolling over of the grants of protection visas creates enough space for arrivals to move smoothly into those properties. There will always be a bit of a juggling act there but we would expect to get to a point where we are renting very few new properties. Maybe we will let a few go at the end of lease and seek other properties for whatever reason, or we might need a few in certain places to accommodate clients wanting to be near family or what have you. But it should steady to a point where the number of new properties that we rent is relatively small.

Senator CASH: And when do you anticipate being able to provide the cost per person per day?

Ms Pope: It is a bit of, 'how long is a piece of string', because part of it is driven by the number of arrivals and how many we get in a certain period and what that pushes through in terms of the number of clients to place in community detention.

Senator CASH: The answer given by the department was that, once the program stabilised, calculation of the average cost per client could be more meaningfully derived. What do you then mean by 'calculation of the average cost per client'?

Ms Pope: The reason we cannot derive it meaningfully at the moment is that there are still a lot of setup costs, and economies of scale are not realised and so on. The time when that comes will be, as I said, when there is more of a seamless flow of arrivals into accommodation, and not the need to be continually renting new properties. My colleagues will assist us in those calculations when we get closer.

Senator CASH: When is it anticipated that the program will stabilise?

Ms Pope: That is the bit that we have difficulty with because it is hard to know when. It is really driven by the number of arrivals.

Mr Metcalfe: I think we will find there is an average cost but in due course there will be a lower average cost because those setup costs of acquiring the property, the bond, the household formation and the furniture cost will be rolled over across multiple clients. So while there is a setup cost, the ongoing costs are going to average out to a lower number.

Mr Sheehan: There is another complicating factor. It depends on the different client mix—whether we have small families, large families, or singles. There is a range of other complicating factors that we need to work our way through as well.

Senator CASH: You made a comment in relation to the rental properties that you are pitching yourself just above the bottom end of the market. How is that borne out in the figures, when in the majority of states you are actually paying above the average rental as set out by the Real Estate Institute?

Ms Pope: We have been thinking about that, and there are a couple of reasons. The first is that the very bottom is very poor and rental costs are quite high across the country and vacancy rates are quite low. This is not news. The number of single clients and large families and groups of unaccompanied minors does mean that we are renting some properties that are either larger or smaller and therefore the rate per person and the overall cost is higher. We think that those factors are contributing to being close to the average. Some of the properties that we have from the churches have accommodation for, say, 12 and so on. You are factoring a lot of things in to get a bit of a blunt average. You asked the question about the least rent we pay and the highest we pay by state, which we will attempt to get for you. That will probably give you more information about what comes into the average. As I said, that average varies quite a lot because when we look at it three months later it could well be a different figure.

Senator CASH: Certainly you would agree that in Queensland if you are paying \$383 per week and the average is \$350 you are paying above the average rental rate.

Ms Pope: Yes, and as I said I think that is because it is very hard to get a cheap apartment for one person. Sometimes that is necessary for our clients. Also, when you are renting a large property for a large number of clients the same applies.

Senator CASH: It is still above the average rental, though.

Ms Pope: Yes, it is.

Senator CASH: In relation to health costs et cetera, of people in community detention, do you have a figure of what the health cost was for, say, the last six months to date?

Ms Pope: I do. As I said, I am a little bit uncertain about these figures. I will give you the figure but I would rather provide the breakdown of costs on notice.

Senator CASH: You can give me the total figure and then—

Ms Pope: The figure I have for health is \$3.72 million but I would want to confirm that because some of the other numbers do not add up.

Senator CASH: Over what period is that figure?

Ms Pope: That is for the six months to 31 December.

Senator CASH: Who meets those costs?

Ms Pope: The department does through the contract it has with IHMS.

Senator CASH: So even when you are in community detention you do not have to pay for that out of your allowance.

Ms Pope: No.

Senator CASH: The department will still pay the health costs through its contract with IHMS.

Ms Pope: That is right. They recruit GPs to their program and we use their doctors.

Senator CASH: What about pharmaceuticals? Who pays for pharmaceuticals. Is that something you have to pay out of your allowance or is that also a government—

Ms Pope: The pharmaceuticals are also paid for by IHMS, I believe, but I would want to clarify that. The reason I say that is that the pharmacies that we can use are designated by IHMS. I presume that that means that we cover the cost but I am not 100 per cent sure.

Senator CASH: Do you have a cost in relation to pharmaceuticals?

Ms Pope: No, I do not.

Senator CASH: Are you able to provide that?

Ms Pope: They are included, my colleague has confirmed, but I do not have a figure. As I said, I am not satisfied with these figures so I would rather give you the breakdown of the \$48.27 million on notice.

Senator CASH: What about transport costs and taxis et cetera. Whose responsibility—

Ms Pope: The clients pay for those—bus tickets and so on—out of their allowance.

Senator CASH: Are the drugs and health related costs part of the \$50.8 million you referred to earlier?

Ms Pope: They are part of the \$48.27 million.

Senator CASH: Does the cost for community detention include the special purpose payments made to asylum seekers?

Ms Pope: If you mean the 89 per cent of the benefit, yes it does.

Senator CASH: Can you provide the weekly rental that the department pays for community detention?

Ms Pope: It would be a changeable number—

Senator CASH: Could you base that on the figures that you have given me?

Ms Pope: No; I cannot give that to you now, because it would be multiplied by—

Senator CASH: Not now. You can take it on notice.

Ms Pope: We can make an attempt. I think what you are—

Senator CASH: Can you provide me with the total amount paid by way of rental to date?

Ms Pope: Yes.

Senator CASH: In this financial year.

Ms Pope: Yes.

Senator CASH: In terms of the provision of the accommodation, who decides whether the accommodation will be allocated to an asylum seeker rather than a genuine refugee who has access to the humanitarian settlement services program?

Ms Pope: The providers of accommodation for people who have been granted a protection visa—they might be clients who have been in community detention and have been granted a visa; they could be people in a detention centre who are granted a visa or they could be from the offshore refugee program—seek accommodation on the private market in the same way as the program does for community detention. So they are renting properties in a similar fashion. There is consultation, because that is the place where the person will live long term. They also pay their rent and choose a property that they will live in, long term.

Senator CASH: How has the community detention program finding community accommodation for asylum seekers impacted on the ability of the HSS refugees to locate suitable accommodation? It is a tight market out there.

Ms Pope: It is a tight market. In terms of transition from community detention to the granting of a permanent protection visa which is when the CD staff and the IHSS staff come together, we have a four-week transition period from the time the visa is granted until the person is required to move into their new accommodation. Apart from a few cases where someone might want to move interstate for some reason or something like that, the vast majority of those clients move within that time frame which suggests that, while it is not easy to find accommodation, it is possible. In some instances, people who have been in community detention, if they can afford the rent of the property that they are living in for community detention, take it over as their HSS property into the future. There is a bit of a conflict between us not hitting the very bottom of the market and what somebody might be able to afford long term. That varies depending on if you are a single female where finding an apartment or something you can afford is quite difficult, so often they get two or three single females together so that they can share a house in the same way that students do when they are trying to get in to rental accommodation. It is the same for single adult men. Unaccompanied minors go to a program where we also assist them to find accommodation and we provide a range of services. They are transitioning out pretty smoothly. The issue is finding carers for those in CD and those who move into IHSS or UHM service provision, as they are called once they are granted visas. It cannot fail to have had an impact, but not to the extent where we have seen other services that we also administer as a department suffer as a consequence.

Senator CASH: In relation to the costs that have been outlined for community detention, do they include the costs incurred by state and territory government services, or are state and territory governments compensated separately?

Ms Pope: The costs of community detention for states and territories would be reasonably limited, because we pay for education. We have an agreement with each state and territory where we have children placed either in government or non-government schools and we pay the fees for those children to attend schools.

Senator CASH: Are any costs for the state and territory governments included in the costs that you have given us or are they separate?

Ms Pope: I am not aware of anything else we pay for the costs of community detention to the state and territory governments, because we literally pay for everything that our clients have access to. Health and education are probably the biggest two. We provide the rent. The families and the unaccompanied minors have their own funds provided by the department to purchase bus tickets, schoolbooks et cetera.

Senator CASH: I am assuming that if there is an incident in a particular state, it is not the federal police or Serco who turn up, it is the state police who turn up.

Ms Pope: That is a good point.

Senator CASH: That would be a drain on state resources. There is going to be a funding agreement in relation to the northern detention centre for the state police to be compensated. Are there other similar arrangements?

Ms Pope: There are a series of MOUs being negotiated with state governments.

Senator CASH: In relation to community detention?

Ms Pope: Not separately, no. I will have to confirm that with my colleagues.

Senator CASH: Could you provide a list of those MOUs that are being negotiated with state governments?

Ms Pope: I am not negotiating them, but we can provide that.

Senator CASH: Please take that on notice. In relation to the police, when you house someone in community detention, are the police notified that these people are being placed in community detention and are they consulted beforehand in relation to the ramifications? What details are the police provided in relation to the individuals?

Ms Pope: The simple answer is no.

Senator CASH: The police are not consulted?

Ms Pope: They are not notified or consulted about the fact that a family is going to rent a property in a certain street and so on. We have provided information to the police about the suburbs, towns and cities in which community detention is operated, but for privacy reasons we have not provided the addresses of everybody in community detention.

Senator CASH: Have the police ever raised concerns with you that a particular suburb perhaps is not an appropriate suburb?

Ms Pope: Not to my knowledge, no.

Senator CASH: In the event that those concerns were raised, is there a process that you could work through?

Ms Pope: Yes, because there are open channels between detention group broadly and the police in each state, and we would have the opportunity to discuss those issues if they were of concern.

Senator CASH: Are the police ever notified when an asylum seeker may receive negative news from the determination process?

Ms Pope: Not in the first instance.

Senator CASH: In what instance would the police be notified?

Ms Pope: What I meant was it would be if there was a negative reaction that might require the presence of the police for some reason or other. As in the normal course of things in the community, the police would be involved as they are in any other sort of situation. When we hand down a decision, case workers and carers are present and potentially counsellors, other support people, depending on the assessment made of the likely reaction and any issues that might need to be managed. It would only be in a rare case that the handing down of a decision would immediately result in the sort of action that would require the involvement of the police.

Senator CASH: What about those on bridging visas?

Senator Lundy: Can I just clarify: have you received any complaints that there has been criminal behaviour? Your line of questioning is implying that there is some cause for concern, and I think it is only reasonable that you explain what your cause for concern is, otherwise you are impugning that there is some criminality associated with people who are in community detention. You just cannot get away with that—you have done it before.

CHAIR: It is 6.30, so I think it is a good time to break until eight o'clock.

Proceedings suspended from 18:31 to 20:03

CHAIR: Mr Metcalfe, do you have any answers or comments to start with?

Mr Metcalfe: No, Chair.

CHAIR: Let's recommence the Legal and Constitutional Affairs Legislation Committee's consideration of the additional estimates. We are continuing with outcome 4.

Senator HANSON-YOUNG: Mr Metcalfe, the United Nations High Commissioner for Refugees has just been on the 7.30 program.

Mr Metcalfe: Yes, I saw him.

Senator HANSON-YOUNG: So you would have heard his comments. Obviously there are lots of things to talk about in the context of resettlement services and all the things that we do well. He was asked about issues in relation to asylum seekers in Australia. He said that Australia had an inflated view when it came to the numbers of boat arrivals. Would you agree with that?

Mr Metcalfe: I think the high commissioner was contrasting the number of boat arrivals in Australia with those experienced in Italy, Malta and, from memory, Yemen, which number in the tens of thousands.

Senator HANSON-YOUNG: How many boat arrivals have we had this year?

Mr Metcalfe: We will get that number for you, but so far this financial year it is in the low thousands, of course. I think I said in an opening statement, probably about a year ago, that Australia receives about two per cent of asylum claims globally.

Mr Moorhouse: To respond to your question, I do not have the numbers here by financial year, but we had 67 boats last year and we have had six so far this year.

Senator HANSON-YOUNG: Thank you. The high commissioner also spoke about the processing of claims of asylum seekers and said that, in the UNHCR's view, it was best to process claims of asylum seekers who reached Australia, here in Australia. That is obviously currently what we have, aside from the process of starting at Christmas Island, but that of course is a territory. What is the long-term view of the department about preparing for the ability to streamline the process of onshore processing?

Mr Metcalfe: Over the last couple of years the department has, in response to the various High Court cases, continued to look at and invest in the refugee determination processes that we have. I mentioned in my opening statement the protection obligations determination process and, of course, the fact that late last year the government announced that it would move from a bifurcated review system to a single review system—essentially, a protection visa process followed by a Refugee Review Tribunal process, given that, effectively, the High Court has rendered OTOs—the legislation passed in 2001. We believe that we operate an efficient system and that it properly assesses and tests claims that people may make. It gives them the opportunity to make claims and, of course, they are supported in that under application assistance arrangements. We believe we have well-trained staff and review officers who assist those claims objectively. We will always be looking to improve, but we stand up very well compared to international benchmarks in our asylum determination system.

Senator HANSON-YOUNG: Mr Guterres spoke of the inflated view. There are the numbers of asylum seekers in Australia versus the numbers of asylum seekers elsewhere. In terms of the numbers that do arrive here, we are able to manage those numbers. You just said that the process is able to work to assess those people's claims.

Mr Metcalfe: There is probably a distinction to be drawn between the numbers that do arrive and the risks associated with the travel to Australia. We have obviously seen some terrible tragedies over the years and many people have drowned. The fact that the high commission also noted Australia's long-term and generous resettlement of refugees and that under successive government policies the number of overseas refugees settled in Australia are decreased by the number of asylum seekers arriving here. There is also good body of material about broader support for refugees and migration that we have discussed before. I do not need to go into that here. The numbers themselves are part of a broader policy conversation that clearly needs to continue to occur in Australia.

Senator HANSON-YOUNG: But you do not think that they are unmanageable?

Mr Metcalfe: We are doing our best to manage the situation. As we indicated earlier to Senator Cash, in some months we get quite a large number of people and we sometimes do struggle, given the requirements for them to be detained and processed in detention, pending the potential for other forms of processing, and in other months we see fewer people. We saw not many people, comparatively, in January. We saw quite a large number in November. I do not think it is simply something that we would say is easy. It is a complex, difficult and expensive process to manage.

Senator HANSON-YOUNG: The expansion of the bridging visas and community detention are meant to help with that process.

Mr Metcalfe: Certainly that relieves pressure in the held detention system.

Senator HANSON-YOUNG: You were speaking to Senator Cash earlier about the cost recovery that is involved in expanding those programs. Over a longer period of time, it will ultimately be saving the taxpayer money.

Mr Metcalfe: It would be, in our view, less expensive than having to continue to add capital costs to establish detention centres and security or continue the other costs of maintaining held detention.

Senator HANSON-YOUNG: Thank you. Let's go to the issue of the IMR applications and reviews. Can you give me some numbers in relation to how many people in detention are currently awaiting a decision following an IMR interview?

Mr Metcalfe: I will ask Mr Lynch to join us, and we will just need someone to give him room. There is no shortage of volunteers.

Mr Lynch: I may not be able to give you the detention figures. I might have to look to one of my colleagues to assist me but I can give you statistics on precisely what the, decision rate, lodgement rate, finalisation rate and processing times are.

Senator HANSON-YOUNG: Would they be the same statistics that are in the annual report?

Mr Lynch: I have got statistics to the end of December last year.

Senator HANSON-YOUNG: All right: update us then.

Mr Lynch: Cases on hand in late 2010, we had approximately 1,000. That peaked at over 2,200 in the middle of last year, 2011. As at 31 December, we had 1,326 cases on hand.

Senator HANSON-YOUNG: But you cannot tell me how many people are currently in detention—who would be able to give me that?

Mr Metcalfe: Your question is: how many people in detention—

Senator HANSON-YOUNG: Have had their IMR interview and are awaiting a decision?

Mr Metcalfe: Mr Moorehouse can help you.

Mr Moorehouse: I can give you that number and just a few points of clarification. The number I have includes the people in community detention. It is based on departmental systems, so there is sometimes a slight discrepancy between the IPAO and the departmental systems because of data input. On 27 January there were 516 people in a detention centre or community detention whom we have recorded as awaiting an IMR decision.

Senator HANSON-YOUNG: Or community detention—can you pull them out?

Mr Moorehouse: I cannot distinguish them from the data I have here, but there are—

Senator HANSON-YOUNG: Can you take that on notice.

Mr Metcalfe: Yes.

Senator HANSON-YOUNG: Thank you. Just repeat that total figure for me again.

Mr Moorehouse: 516.

Senator HANSON-YOUNG: But that includes people who are also in community detention. When do you think you will be able to get that figure?

Mr Moorehouse: It would take some time for us to be able to disaggregate that.

Senator HANSON-YOUNG: Why is that?

Mr Moorehouse: Because the system we have records a person according to their status.

Senator HANSON-YOUNG: Not location.

Mr Metcalfe: We need to separately go in and try and interrogate their locations.

Senator HANSON-YOUNG: Take it on notice; that would be great. How many people who are currently in detention have filed an application with the court for judicial review of an IMR?

Mr Metcalfe: You need to get Ms Hardy, I suspect, to come and join us as well. Just to explain: obviously, the chief lawyer has got the statistics about litigation; Mr Lynch has got the statistics about the independent merits review; and Mr Moorehouse has got the statistics about detention.

Senator HANSON-YOUNG: It is a whole team operation. I am all about teams; that is good.

Ms Hardy: Massively coordinated; can I have the question again, please?

Senator HANSON-YOUNG: How many people who are currently in detention have filed an application with the court for judicial review—this is in relation to the IMR decisions?

Ms Hardy: We currently have it that at the 31 December the department had received 440 applications for judicial review of assessments made by independent reviewers, and that is since the High Court decision in M61.

Senator HANSON-YOUNG: Mr Metcalfe, you will direct me as to who to direct this question to: out of those people who have got to that stage—it is almost like end game, isn't it; you cannot go much further than that—are any of them being prioritised for community detention, seeing as they would have been in detention for quite a period of time to get to that judicial review stage?

Mr Metcalfe: We will get Ms Pope to advise us about the eligibility criteria for community detention and Mr Kelly will be able to assist us in relation to bridging visa matters. Again, it just depends on where the responsibilities lie.

Mr Moorhouse: While we are waiting, may I correct my previous answer?

Senator HANSON-YOUNG: Yes.

Mr Moorhouse: I have so many reports here that I have trouble keeping up with them all, but I do have a report that tells me—

Senator HANSON-YOUNG: It is not very often that I am so quickly impressed!

Mr Moorhouse: I have had to add up about six different columns, so, based on my mental arithmetic, of the 516 people who are awaiting an IMR outcome 108 are in community detention. If my mental arithmetic is wrong, I will come back to you and correct the number.

Senator HANSON-YOUNG: Thank you.

Ms Pope: In relation to eligibility for CD and priorities, we prioritise by status secondary to, first of all, vulnerability. So unaccompanied minors and children in families are the highest priority and then we process them in order of the longest time that people have been in detention. At the moment, for unaccompanied minors we are up to date as of 20 November, so any unaccompanied minor who arrived before that date and is eligible for placement in community detention—

Senator HANSON-YOUNG: What date?

Ms Pope: The 20th of November. For children in families it is 30 October, so about 3½ months is the longest currently for accompanied children and around three months is the longest for unaccompanied children. That is reflective of pretty high arrivals in November and December of both unaccompanied minors and children.

There are others beyond that date who are already in community detention on the basis of need and vulnerability, so the oldest cases that are eligible—and I stress that because there are small numbers that are not eligible to be placed in community detention because of risk, behaviour or security issues—are all in and we work as well as we can from the oldest to the newest arrivals.

Senator HANSON-YOUNG: Regarding the management of those in community detention, do you know where their status resolution is up to?

Ms Pope: I do not have a very recent version of that, but I can tell you that, when we ran a report that will deliver that to us about four or five months ago, around 30 per cent were on a direct positive pathway, so heading towards a visa. Around 70 per cent were at various stages of review, including judicial review. Our view is that a percentage of those, of course, will be positive as well. This goes a little to the discussion I was having with Senator Cash about how fast is the turnover. We try and look at what stage people are at and what percentage is likely to get a positive outcome and therefore move through, because the long-staying population are those who remain on a negative pathway right through to judicial review.

I would say the percentages are probably similar at the moment, with about 30 per cent turning over in the positive category. Those who are yet to move in, of course, are at the very beginning of their processes, so when they move in they will increase the percentage in that largely positive pathway and so forth. But around 30/70 seems to be about where it sits.

Senator HANSON-YOUNG: Who is responsible for the bridging visas?

Mr Metcalfe: Mr Kelly or Mr Moorhouse.

Mr Kelly: The minister announced the BVE program in October. It took the department a little while to establish a process that we did not have in place before to set up the arrangements with the Australian Red Cross and others. The first group received visas on 25 November 2011 and we have had subsequent groups then approved by the minister to a point where 257 bridging visas have been granted by the minister since that very first group.

Senator HANSON-YOUNG: When you say approved, are they out living—

Mr Kelly: Granted and out into the community. We are expecting our next release tomorrow, 14 February.

Senator HANSON-YOUNG: Happy Valentine's Day!

Mr Kelly: Particularly for that group! I cannot confirm the exact numbers on that right at the moment. They could fluctuate right up to the day of actual grant, but my expectation is that, hopefully, around 100 will be granted tomorrow.

For the original part of your question: because this was a new process we started with a group of people who had been in detention for longer than 15 months. In addition to that we looked at those people who were either 1A met or people who were at merits review, but not people who were at JR at that stage.

Senator HANSON-YOUNG: Why was that?

Mr Kelly: Again, focusing on those people who were on positive pathways as opposed to people who may well have been on a negative pathway at that point in time. Please remember, this is a brand new process; clearly, we want to ensure that this process is something that will work and continue to work in the community, as a result of which there have been positive results to date.

In addition to being 1A met or on at merits review, we also took into account whether people had adverse security or not, obviously, or people who may have had behavioural issues while they were in the detention facilities as well. With that in mind, we are now starting to work on other groups as well and also starting to consider people who are at JR. My team has been working closely with Ms Pope's team, particularly for some people who might be assessed as vulnerable and who are at the JR stage, to have those people in community detention if bridging visas cannot work at this stage.

Senator HANSON-YOUNG: Correct me if I am wrong: you are saying that even though this may not have been the way you started the program, currently the only group technically excluded from being able to be seen to be eligible for a bridging visa would be those who had adverse security assessments?

Mr Kelly: Adverse security and behavioural management as well; those that might be persons of interest in respect of the AFP, and possible charges et cetera.

Senator HANSON-YOUNG: Okay.

Mr Metcalfe: It goes to character issues, broadly.

Senator HANSON-YOUNG: Sure. But having your case judicially reviewed is not an exclusion?

Mr Kelly: As I said, we had not worked on those groups at that point in time. It is a group that we are very conscious of, and do want to see whether or not we can now include them as part of the bridging visa—

Senator HANSON-YOUNG: There is no legal complication for being able to do that?

Mr Kelly: I understand that there were some concerns around that. Only today I sought some advice from the chief lawyer about that.

Senator HANSON-YOUNG: Ms Hardy, would you like to comment about that?

Ms Hardy: No, there is no legal problem.

Mr Metcalfe: No, I think the answer is that there is not a problem with people who are seeking a judicial review. That goes to the fundamental conceptual underpinning of this. From an immigration processing point of view it is whether people are needed in detention or whether people are simply available to us in other circumstances. Based upon the experience we have had over the years, we believe that we can continue a proper process of immigration assessment about status without the need for everyone to be in held detention facilities. That obviously has benefits for cost and benefits for the individuals themselves in relation to their circumstances.

On indulgence, Chair, if I could just say that the department and the minister have been very well supported by the minister's advisory group in this area. There has been some excellent advice and support provided. Indeed, the department sought to and, I think,

successfully worked very well with the broader group of interested parties—not-for-profit organisations and advocacy groups. We have sought to work very closely with them to make this actually work in a way that works for the individuals concerned as well as for the Australian community.

Senator HANSON-YOUNG: Are there any particular areas—aside from who is eligible and who is not—that you foreshadow needing to change?

Mr Kelly: I am not sure that I completely follow the question.

Senator HANSON-YOUNG: You said that there have been some changes since the program first started in terms of who was eligible and who was not. Are there other ways the program is being managed that you think need to be tweaked or changed in order to make it more streamlined?

Mr Kelly: Not at this stage. What we have done is move into the more recent arrivals. We started with the 15-month plus arrivals; we are now moving into the 12-month arrivals, and below 12-month arrivals as well.

Senator HANSON-YOUNG: What about those 170-odd people who have been in detention for over two years? What is going to happen to those people?

Mr Kelly: As I said, there are some cases that we are unable to currently consider for bridging visas. We are looking through each one of the cases currently in our detention facilities. As I said, we are certainly concentrating on the oldest cases; that is something the minister made very clear to the department.

Senator HANSON-YOUNG: So, even though you are going to more recent cases, you have not finished going through the eligibility for those who have been there 15 months or longer; is that what you are saying?

Mr Kelly: As I said, there are some cases that we are unable to put forward.

Senator HANSON-YOUNG: I accept that. But are you saying that everybody who has been there for over 15 months now is ineligible for various reasons, or are you still combing through that process?

Mr Kelly: We continue to review even the older cases. People who we may have not considered earlier, we consider them each time to assess whether their circumstances have changed and now if they do fit the eligibility requirements for the bridging visa E process. So, from our point of view, it is an ongoing process, with every one of our cases.

Senator HANSON-YOUNG: A number of the people who are in the Pontville detention centre have been there for a significant period of time; that is well known. I have spoken to you, Mr Kelly, as well as to Mr Metcalfe about using that facility because those people were a bit more vulnerable. If that facility closes, where are those people going to go?

Mr Kelly: We are currently working through a plan for every one of those clients. There are currently about 117 clients who have only been in detention for less than 110 days. The remainder have obviously been in detention for longer than 110 days, and we are working through every one of those cases. I can assure you that I have no preference for moving those clients to another detention facility. My preference is to have them out on bridging visa Es or where possible in community detention. We will continue to work through that case load by the end of the month.

Ms Pope: Senator, can I just add something. I talked about children and unaccompanied minors, but I did not talk about the single adult men that we are placing, the vulnerable adult men. The cases that we focus on are those who are vulnerable and therefore perhaps not the best candidates for bridging visas, where the ability to work might not be there or where there are torture and trauma issues and so on. The minister has approved over 330 vulnerable adult men for placement in community detention. That has increased quite a bit from last estimates. So I just wanted to make that point.

The other point is that we are not granting bridging visas to unaccompanied minors. That is on the basis of—

Senator HANSON-YOUNG: No, we have had this conversation. Yes, I understand and I accept the reasons.

I want to go to the independent merits review again. It does seem as though there are a lot of people clogged in this system. Has the department run any type of analysis or review as to how we are dealing with this cohort of people? When you look at the annual statistics reports the overturn rate is quite high—thankfully, because, if people are meant to be given protection, we ought to give it to them. Have you, as a department, Mr Metcalfe, been through and reviewed this system?

Mr Metcalfe: We have and we do on an ongoing basis. Dr Southern and Mr Lynch might be able to talk a little bit about that. Certainly there has been extensive work done on making the system as straightforward and smooth as possible, including trying to find ways to get as much information about applicants upfront rather than it only coming out at a later stage for example. Mr Lynch has worked very hard to recruit, train and manage a large number of review staff. In some respects some of the changes will make some of the aspects a little easier to administer, in that, an increasing part of the clientele will presumably be living in capital cities and therefore more easily available for us to access; rather than having large numbers of reviewers travelling to detention centres in quite distant parts of Australia. I will ask Dr Southern and Mr Lynch to answer the question.

Dr Southern: We have certainly undertaken quality assurance reviews of primary decision making and that is done on an ongoing basis. We have also undertaken an assessment of the review decisions and done an analysis of the grounds on which the decisions have been overturned so that we can feed that back into our training programs and our primary decision making arrangements. We found that, primarily, the overturns have come as a consequence of having more detailed information available from the client. With the passage of time there has been change in information in relation to the country from which they are claiming protection. Then there are issues which go to individual reviewers' assessments and primary decision makers' assessments of the credibility of the applicants. So there have been a suite of reasons why the decisions were overturned and, as I said, we have fed that back into our training and into our primary support materials for the primary decision makers.

Mr Lynch: One of the key challenges, I guess, of this client group is that most of the claimants come from traditional refugee source countries, so they are considered to be complex cases. In the RRT, where I spent quite a few years, they would all be considered complex cases. The professional development required of the reviewers is high and ongoing. Their access to country research services as well as legal services is high. We have an MOU

with the RRT for the provision of legal services. Reviewers' draft decisions are advised upon by the principal legal officer of the Refugee Review Tribunal and we obtain country research services from the RRT, as well as having a very specialised, well-trained group of country researchers in my office.

We are getting through a lot of cases. I hear what you say about delays. A part of the overall processing regime for IMA claimants is that there will be some delays built in by the time they get to review and, of course, during the review. We have been scaling up very rapidly since June 2010 to meet the challenge of the IMA arrivals. We have successfully dealt with a great many reports. In calendar year 2010, we dealt with 682 reviewer reports, which is an average of 57 a month. In 2011, we disposed of 2,398—nearly 2,400 cases—which is roughly the RRT's annual turnover. That is an average of 200 decisions a month. The monthly rate in 2011 ranged initially in January from 97 through to 309 in August, giving an average in the second half of 2011 of 250 reports.

So we do have what might be considered a high overturn rate, but, if you look at some of the RRT annual reports going back to the early and middle parts of this decade, you will see that for Iraq, Iran and Afghanistan overturn rates have been, indeed, much higher than the 70 to 80 per cent that our reviewers are currently arriving at. I think a lot depends on the circumstances in the home countries. They are, as Dr Southern said, an evolving area where getting up-to-date country information is a premium. That influences the way in which decisions are made.

On processing times, if I could give you a bit of a picture of the scaling-up that was necessary in terms of staffing and reviewers—

Senator HANSON-YOUNG: How many reviewers do you have?

Mr Lynch: Currently, on paper there are 132 appointed, but we actively have many fewer than that. Most of our reviewers are people who have other positions with other federal merits review tribunals, including the RRT. We have 22 RRT members and some of them are very senior members; former heads of tribunals—RRT included; deputy heads; former principal members of the SSAT and the Vets Review Board; the current Deputy President of the AAT; and so on. So we have some very professional, highly trained reviewers who are doing a very difficult job, as the secretary has pointed out, undertaking reviews in very difficult circumstances. We went from about three reviewers in early 2010 to 132. The training, induction and workshopping of refugee decision-making, country advice and so on has been massive. We have been in task force mode for the last 18 months and have got through a great many cases.

Just on processing times, through to the end of September, during last year, the first nine months, 90 per cent of claimants were interviewed within 60 days of the reviewer being engaged. Seventy-eight per cent of recommendations were finalised within 60 days of reviewer engagement, and 75 per cent of recommendations were finalised within 120 days of review interview engagement. Our current average for review request to report finalisation, however, is 217 days.

Senator HANSON-YOUNG: Sorry, Mr Lynch, could you just repeat that?

Mr Lynch: The calendar year average for reviewer request to report finalisation was 217 days. That is a function of a number of cases being complex, reviewers having very

substantial pipelines of cases and being unable to complete some cases in as timely a manner as would be preferred. The average time frame in 2011 for case allocation to a reviewer to interview was 39 days. The average from interview to report finalisation, for calendar year 2011, was 69 days. More than 70 per cent of cases finalised in the second half of 2011 were finalised within 90 days of interview. Our aspiration is to try and reach 90 days for the whole process. That has not been possible to date for more than the percentages I gave you earlier, but it is an aspiration and, with enough reviewers and staff, anything is possible.

Senator HANSON-YOUNG: Thank you, Mr Lynch. Dr Southern, the analysis that you conducted obviously would have taken into consideration, I imagine, some of the statistics that Mr Lynch was talking about. In terms of one of the key reasons why a decision in the first instance was found to be a poor decision and therefore was overturned, you cited country information. What about the different findings in terms of credibility, difference in terms of applying the convention, the various different protection mechanisms within that and the idea of a well-founded fear? How strong were those in comparison to the country information?

Dr Southern: I make the point first that we were not finding that the primary decisions were poor decisions.

Senator HANSON-YOUNG: Why would they overturned, then?

Dr Southern: They are decisions that are made at a point in time. Certainly some of the reasons why a decision may be overturned is that there is new country information available which may suggest that it is no longer safe to return.

Senator HANSON-YOUNG: Is that what your analysis found, though?

Dr Southern: Certainly some of the reasons for the overturning did relate to different country information.

Senator HANSON-YOUNG: What were the primary reasons for the overturning?

Dr Southern: The primary reasons included updated country information. They were that we had more detailed and better information from the clients; that at the primary decision stage, for whatever reason, we had some information from the clients, but either the clients themselves and/or their agent took the opportunity at the review stage to provide further information.

Senator HANSON-YOUNG: So it was the ability to access credible advocacy?

Dr Southern: That is right. It may have been their ability to access further information—for example, about their identity—from their home country; or their agent, who may have been the same agent all the way through, had pulled the information together in a different way or had taken advantage of having more comprehensive information to provide a more detailed case to us.

Senator HANSON-YOUNG: Did your analysis show that there was a trend amongst individual reviewers, in terms of the overturn rates of some being consistent with the overturn rates of others?

Dr Southern: Not that I am aware of.

Senator HANSON-YOUNG: Your analysis did not track any consistency amongst individuals?

Dr Southern: No, not that I am aware of. I do not know if Ms Parker has any knowledge of the review to that extent.

Ms Parker: No. I could add some information. In relation to some cases, we have been undertaking a process which we call the PRE process, which is the pre-review examination, where there have been a number of clients who have been waiting for review for a period. In fact, when we started the process there was a gap of about 11 months. From doing the process of inviting some of the people waiting for review to provide some additional information, some 32 per cent of those cases have been found to be '1A met' and, of those, 45 per cent were on the basis of new country or updated country information.

Senator HANSON-YOUNG: Dr Southern, I just want to go back to you in relation to the IMR overturn rates of individual reviewers. Did your analysis show that there was a consistent overturn rate for some individual reviewers as opposed to others?

Mr Lynch: I could contribute to that discussion. There is no question that consistency of outcome on similar facts is the holy grail of a good merits review decision-making. Achieving that is one of the singular most difficult tasks that tribunals and courts face in considering cases that might be considered similar. In my experience, both on the RRT and in considering these review cases, there are reviewers who develop more expertise with particular countries and might focus, as a preference, on those countries and might form a view on relocation opportunities, for example, that might differ certainly from primary officers or from colleagues. Their approach to the interpretation of country information, depending on the sources of information they are relying on, might be seen to be perhaps more liberal than others. Equally, some reviewers with considerable experience and expertise in testing credibility may well search deeper, longer and harder for the validity of particular claimants' claims and may assess cases differently on similar facts. We draw to those reviewers' attention how their colleagues are deciding cases. We bring to attention different interpretations of country information. Where legal principle is involved, we have an active program of briefing reviewers on all the court cases. Where we have a concern about a reviewer, we refer that reviewer's draft decisions through the RRT's legal services for vetting.

Senator HANSON-YOUNG: Are their individual reviewers for whom you have had to do that more frequently than for others?

Mr Lynch: I do not know that it is a frequent occurrence with an individual, but we certainly do approach individual reviewers and ask them to have a look at how well they are researching country information and how well they are aware of legal principle. The putting of adverse information, for example, is a key element in the grounds of review that have been taken in the courts at the moment. We focus a lot of our professional development for the entire reviewer group, but also for individual reviewers, on those legal principles. I might just add that this is a whole new area of law. The RRT has been working under a procedural code for many years and, unlike other federal merits review tribunals, where natural justice obligations or common-law rules and natural justice are the guiding force, our reviewers in this jurisdiction have had to learn, since M61 and M69, the application of natural justice as the guiding principle and not the procedural code. So new law is being made. For example, the case of SZQTEK interpreted the provision of adverse information to claimants in a particular way. The magistrate who made that decision has, to a degree, elaborated on his decision and to some extent resiled from the position he took in SZQTEK. So we have a

number of our cases being found wanting based on that legal principle, but the law is developing here and we are learning, as are the courts, how to apply natural justice in this area.

Senator HANSON-YOUNG: Thank you, Mr Lynch. Ms Southern, were there instances in your analysis of individual reviewers where 100 per cent of decisions were overturned, in comparison to 0 per cent of decisions being overturned?

Dr Southern: Mr Lynch is able to address that.

Mr Lynch: I am aware that there was some analysis undertaken by the department in relation to a select group of reviewers with varying numbers of cases in respect of, I think, three or four countries—I am not sure; I cannot recall—and, yes, 100 per cent was the result with some reviewers—

Senator HANSON-YOUNG: Were the majority of reviewers getting much higher overturn rates?

Mr Lynch: I think with the sample that was taken the majority of reviewers were overturning more decisions than not.

Senator HANSON-YOUNG: How do you explain the comments by Federal Magistrate Raphael on last week's court case, SZQTEK v the Minister for Immigration, where findings handed down read:

To that my mind does raise the apprehension that the reviewer has not brought an impartial mind to the process.

The whole case and the analysis that was taken through this case and handed down by Federal Magistrate Raphael seem to indicate that there is an inconsistency amongst reviewers even though there may be a consistency in one individual reviewer in terms of the cases that they are overturning or upholding. How do you respond to that?

Mr Lynch: Sorry, Senator, could you repeat what the magistrate said? I am afraid I am not familiar with the case.

Senator HANSON-YOUNG: It is in relation to the decision that was made:

In other words, the decision upon those facts is in all cases identical, even though the facts are different. To that my mind does raise the apprehension that the reviewer has not brought an impartial mind to the process.

So the reviewer has not brought an impartial mind. They are using the same facts even though the facts are different. At what point do you say, 'Well, this reviewer should not be reviewing cases'?

Mr Lynch: Where there is such criticism we have a close look at that reviewer's decisions and assess whether the magistrate's observations are accurate and whether or not an appeal should be proposed. That is something for the minister and the minister's advisers, of course, but where we do get that sort of criticism we have a close look at the reviewer's decisions. We have had occasion in the past where there has been criticism to go to that reviewer's decisions and have a closer look. The case I mentioned, SZQTEK, is a case in point, where 14 of that reviewer's decisions were not contested in the court because of the magistrate's decision in that case. That magistrate has since resiled from that strong position, or at least made

subsequent decisions that qualify very seriously the decision to withdraw those cases. So a reviewer can be tainted by judicial remarks which may or may not stand on appeal.

Senator HANSON-YOUNG: You are saying that you will go and review these individual cases. Will you review the reviewer in this case to see what their overturn rate has been?

Mr Lynch: Absolutely.

Senator HANSON-YOUNG: Have you got that information? Are you able to aggregate that information to see?

Mr Lynch: We certainly can.

Senator HANSON-YOUNG: When will you do that? This was only last week's case. But that to me is a pretty damning analysis of the process that was undertaken by this particular reviewer.

Mr Lynch: I have just returned from leave and I am unaware of the case, but one of the key concerns we have—and this affects the morale of reviewers and so on—is to ensure that we are alive to the need for further professional development and so on.

Senator HANSON-YOUNG: Let me be really clear, Mr Lynch: it is not the overturning of decisions that I am particularly concerned about; it is the length of time people remain in detention unnecessarily and the cost to the Australian taxpayer in doing that. This person had the wrong decision made; it was then not overturned when it should have been; and, on top of all that, because it was taken to court, it cost the Australian taxpayer nearly \$6,500 just to have to pay back in dividends because the reviewer made the wrong decision. You read out, Mr Lynch, all the statistics in terms of overturn rates. I would be hoping that in any analysis that was done—and both Ms Southern and, Mr Lynch, you have referred to analysis being done in the department—if there are reviewers that are consistently getting it wrong they need to be moved on, surely.

Mr Lynch: We have an active process of discontinuing work to reviewers who are unable to meet professional standards and/or who have an inability to learn from their peers about consistency of outcome in terms of interpretation of country advice, country information, but also legal principle. We do discontinue services to reviewers who may be unable to meet their workload demands or who are unable to meet professional standards. I can assure you of that.

Senator HANSON-YOUNG: Do you collect any anecdotal evidence or communications from detainees in the facilities about what they think of individual reviewers?

Mr Lynch: I do not collect it as such. We do get reports from the Ombudsman, the Human Rights Commission and from within the department and elsewhere about apprehensions about individual reviewers. We did some analysis of this and we did establish that there was a lot of misinformation occurring at centres. For example, several reviewers were actually named. We had a look at their overturn-affirm rates and we found that in several cases their overturn rates were at 80 per cent and 90 per cent. But it is the one detainee, the one claimant, who was refused who spreads the word that this reviewer forms a preconceived view.

Senator HANSON-YOUNG: What happens when a detainee refuses to have an interview with a particular reviewer?

Mr Lynch: We have a look at the grounds, we make an assessment, we consider the reviewer's position and we make a judgment call on whether the reviewer should continue to review or not.

Senator HANSON-YOUNG: The review happens without the reviewer meeting the detainee?

Mr Lynch: We generally have a requirement that every applicant should be interviewed unless the case can be approved on the papers. We do have occasions where applicants decide they wish to choose which reviewer they are going to get. We have had cases where we have had reviewers with high overturn rates—but who have been blackballed in line with what you were saying earlier—where we have said: 'No, look, we don't have the capacity to bring on another reviewer. This reviewer is perfectly sound, ready and prepared and another reviewer would only be available in six weeks time.' And we continue with the proposed interview. It is a difficult thing. This happens in the RRT as well. One has to make a judgment call on whether there were grounds—whether if it is a male-female issue where an applicant may be unhappy with a particular gender of reviewer, we will consider that very closely. If the reviewer's name reminds the applicant of torture and trauma experience in the home country we will change the reviewer. So we are very sensitive and open to changing reviewers where we can and where there is a sound reason.

There is one case I am aware of where a reviewer, a former deputy principal member of the RRT, was asked not to sit on a case. Inadequate grounds were raised. I think it was, again, misinformation. We discussed it with the reviewer and agreed that the right thing to do was continue with the offer of an interview. It was declined ultimately. The reviewer gave a further 21 days for submissions to be made on behalf of the applicant or a change of heart about the interview. That was not forthcoming so a decision was made.

Senator HANSON-YOUNG: Thank you, Mr Lynch. I have a final question, Chair, and then we can move on. Mr Metcalfe, my question is in relation to answers to question on notice No. 221 in relation to ASIO security assessments. You might want to pull the answer out.

Mr Metcalfe: I will probably ask a different officer to join us.

Senator HANSON-YOUNG: I am querying the answer. I would like to know whether you agree that this is the truth will not—whether it is a typo, I don't know. In answer to the question in relation to adverse security outcomes, there are a number of sections to the answer. I am interested in the second paragraph. It says:

Anyone subject to an adverse ASIO security assessment, including irregular maritime arrivals, can seek judicial review of the assessment in the Federal Court or the High Court.

My understanding is that that is not correct. If it is, when did he change?

Ms Parker: Mr Metcalfe, if I could take that question. That is in fact correct. We double-checked on that the other day and that is accurate.

Senator HANSON-YOUNG: When did this change?

Ms Parker: I think that has always been the case.

Senator HANSON-YOUNG: Section 36 of the ASIO Act specifically says that somebody who is not an Australian citizen is not able to have an assessment in those courts—a judicial review of that assessment. So when did this happen?

Ms Parker: That is not my understanding.

Senator HANSON-YOUNG: But you obviously queried it. Why were you querying it, if it is simply a matter of course?

Ms Parker: Just to double-check that that was, in fact, the correct position.

Senator HANSON-YOUNG: Is that because you thought that it may not be?

Mr Metcalfe: This is clearly a matter of law.

Senator HANSON-YOUNG: Do you want to take this on notice?

Mr Metcalfe: I think that we should check, given that you have raised a very valid point. And of course the issue of any judicial review of an ASIO assessment is a matter for the Attorney-General's portfolio and not this portfolio.

Senator HANSON-YOUNG: And I will ask them, but it was in response to questions your department gave me.

Mr Metcalfe: Yes, and I suspect we were being helpful in trying to answer the question, whereas we probably should have referred it to that portfolio. But can we take that on notice and check.

Senator HANSON-YOUNG: Can you please, because it has caused a bit of a stir, I can tell you?

Mr Metcalfe: For sure. Thank you for drawing it to our concern.

Senator HANSON-YOUNG: Thank you. That is it, Chair.

Senator CASH: I have about 30 minutes of questions but they were also going to be provide me with the household—

Ms Wilson: Senator Hanson-Young, before you leave, can I answer an earlier question you asked about the training when the people doing the age termination.

Senator HANSON-YOUNG: Yes, great.

Mr Metcalfe: Chair, are you happy with that.

CHAIR: I am just trying to determine how long Senator Furner and Senator Pratt might have here.

Senator FURNER: I have got about five or 10 minutes on 4.3.

CHAIR: And five minutes for you, Senator Pratt?

Senator PRATT: Probably.

CHAIR: Do those five or 10 minutes, and then we will go to you for the rest of the night, Senator Cash.

Senator CASH: I know that Eric Abetz potentially wants to come down afterwards. But I would prefer to get mine done if that is possible.

CHAIR: So you reckon you have got 15 minutes?

Senator CASH: No, probably 20.

Mr Metcalfe: We also have some information for Senator Cash.

CHAIR: All right, let's go to this question and then we will go to Senator Cash.

Ms Wilson: In relation to the number of trained age determination reviewers, as of 13 February there were 23 persons Australia-wide trained to undertake age determination. There are 13 more officers being trained in February and there will be more courses held in March. It involves a two-day training course with follow-up mentoring by highly experienced executive officers in the field. The training course covers procedural training on techniques and assessment and also includes mock-up interviews and evaluation and feedback. So we are building our capacity in that area, as we discussed a little while ago.

Senator HANSON-YOUNG: Thank you.

CHAIR: Ms Pope, did you have something?

Ms Pope: I just want to follow up on Senator Cash's questions. I have some more information regarding the household formation package.

Senator CASH: Do you have the document before us?

Ms Pope: I have that list and I can provide it to you.

Senator CASH: It would be good if I had a copy now so that we can go through it. Thank you.

Ms Pope: Senator, you were talking about the limits on the size of the package and that sort of information. We specify the amount that can be expended on a band basis, and that is linked to the number of people in the household. If it is a single person sharing a house with some other people, the maximum that can be spent is \$2,350.

Senator CASH: Is that per person, or per house?

Ms Pope: That is for a single person sharing a house with others.

Senator CASH: Is that per person?

Ms Pope: That is for one person, yes. For a single person in a property by themselves it is \$3,900. For two people it is \$4,350. For three to four people it is \$5,950. For five to six people it is \$7,100. For seven to eight people it is \$8,750. For nine people or more it is \$9,850. You will see from the list that is coming that that would include things that ramp up with the number of people—for example, the number of beds, dining chairs, towels, crockery and that kind of thing. When someone leaves the property they are able to take with them the sheets and towels that were for their use because we do not re-use those; they are provided new for each client. But all the other items remain in the property for the next people who come along.

In addition to that, we have a starter package of some very basic food and cleaning supplies in the house for the people when they arrive. Sometimes, if it is a charter, it can be late at night or what have you. The bands range from \$100 for a single person through to \$250 for families of nine or more, along the increments that you would expect. The package includes things like bread, butter, milk, eggs and other very basic essentials so that, when they arrive, they have something to start them off.

We also have a package of baby items where there are babies involved. The cost for that package is \$750 per child. It sets out that most of the things have to be new—mattresses,

blankets, pillows, towels et cetera. Things like baby baths, high chairs and prams can be new or second-hand in good condition.

I answered questions for you before about utilities connection. I can confirm that the clients do not pay for the initial utility connection but they do pay for the costs accrued thereafter. The exceptions to this are around unaccompanied minors. As I said, unaccompanied minor households have the addition of a computer and the possibility of purchasing a range of items, including a table tennis table and a soccer ball—items aimed at keeping young men entertained and occupied when they are not allowed to work.

Senator CASH: You said that, when people leave, they are able to take the towels, sheets et cetera. But obviously the television, the dishwasher and the washing machine—

Ms Pope: I can confirm that there is no dishwasher. Essentially, they leave the hard goods behind.

Senator CASH: I am assuming that is taken into account in relation to the amount that is actually able to be spent on the person or in the house.

Ms Pope: I am not sure I understand the question.

Senator CASH: If you are allowed to spend \$2,350, that is the allowance for a single person living in a house—

Mr Metcalfe: And then someone else moves in.

Senator CASH: Correct.

Ms Pope: We top up the soft goods and not the hard goods. This is why over time when we are using the language around stabilising it is when we have enough furnished households to just keep having people move in and then all we will be paying for is the soft goods, so to speak—the towels and sheets.

Mr Metcalfe: So that is initial household formation but, as Ms Pope is saying, in a household where the beds, furniture et cetera are present and are essentially handed on to the next person, obviously the allowance would not be of the same size. It would be much smaller because it would cover sheets, towels and the start-up food, presumably.

Ms Pope: And a little bit of wear and tear, if something is worn out or whatever—so just a top-up.

Senator CASH: Under the items not to be provided as part of the HFP unless approved by DIAC, when would DIAC approve a mobile telephone?

Ms Pope: We provide mobile telephones to unaccompanied minors because of the safety issues and care. We pay for the connection and then they pay for the calls. It is the same with the phones in the households. There is a budget for local calls—and we talked about this earlier—but, for international calls, the clients who make the calls have to pay for them.

Senator CASH: Do you have any contracts to buy these items in bulk?

Ms Pope: I am sorry, Senator; I forgot to pursue that question.

Senator CASH: If you could take that on notice and let me know, that would be appreciated.

Ms Pope: Certainly.

Senator CASH: I would like to go back to a figure, after looking at my notes. The earlier evidence this evening was that in 2012-13 the average occupancy would be 5,720—which assumes 450 per month arrivals—and that, of that average occupancy, 30 per cent would be on bridging visas, 20 per cent on community detention and the balance in closed or locked detention. Is that correct?

Mr Metcalfe: That was the figure that Mr Sheehan provided.

Senator CASH: Yes, 5,720. The figure that I seem to have misplaced is the corresponding figure for 2011-12.

Mr Metcalfe: I thought that was a 2011-12 figure because—

Senator CASH: That is what I thought as well. I just wanted to check.

Mr Metcalfe: I thought Mr Sheehan said that we were ramping up to that 30 per cent figure and that we were only at six per cent—

Senator CASH: I have incorrectly transposed them down.

Mr Metcalfe: We will get him to run through the figures again.

Senator CASH: Thank you. So 2011-12 is 5,720?

Mr Sheehan: Yes.

Senator CASH: And 2012-13 is?

Mr Sheehan: Arrivals?

Senator CASH: Yes.

Mr Sheehan: It would be 12 times 450, which would be 5,400.

Senator CASH: Is that average occupancy?

Mr Sheehan: Oh, average occupancy? The average occupancy was 5,720 in 2011-12. And I said six per cent of the cost—not the number; six per cent of the cost was related to BVs.

Senator CASH: And what is the average occupancy for 2012-13 forecast to be?

Mr Metcalfe: Don't forget that Mr Sheehan is talking about the cost and not the numbers. So, of the estimated number of people in the system, the cost of people on bridging visas is expected to be about 30 per cent, I think, and the cost of people in held detention about 50 per cent.

Mr Sheehan: I think I said just under 6,000—5,919.

Senator CASH: Would be for the 2012-13?

Mr Sheehan: The average occupancy in 2012-13.

Senator CASH: Thank you for that. I want to go back to what we discussed tonight in terms of what is provided by way of community detention. The accommodation is provided, obviously, in that the rent is paid for.

Ms Pope: Yes.

Senator CASH: The household goods et cetera are provided in terms of the household goods formation package list.

Ms Pope: Yes.

Senator CASH: Pharmaceuticals are provided by the government. Is dental provided by the government as well?

Ms Pope: Yes, that is also covered by IHMS.

Senator CASH: The medical is covered as well, as are education costs et cetera.

Ms Pope: Yes.

Senator CASH: And then there is also the allowance, which is 89 per cent of what they would get if they were—

Ms Pope: The benefit they would be on in the community.

Senator CASH: It goes to the issue that we discussed earlier today in relation to people who will potentially delay exiting from Australia by a legal action if they are able to stay in community detention. If you are being provided with all of this, why would you actually want to exit Australia via one of our re-assistance packages when you are given a home to live in and almost everything is paid for by the government? What incentive is that providing to people to leave Australia?

Mr Metcalfe: The requirement is on the department to make a decision in a timely and proper manner for any process associated with the prevention of putting into effect that decision to be pursued, such as judicial review and other matters that exist as a result of Constitution. We would not be saying that a person in community detention would be able to stretch out our processes. We would be very much wanting to ensure that our processes were moving properly and quickly to removing a person.

Senator CASH: Do your processes include the avenues for appeal to the courts and ultimately to the High Court?

Mr Metcalfe: The constitutional process is there. There are processes we have to operate under.

Senator CASH: Do we have any parameters surrounding how long a person can stay in community detention? Are there a number of years that are considered acceptable?

Mr Metcalfe: Until the person is granted a protection visa, or removed from Australia or the circumstances where we believe community detention is appropriate change—if there is a major behavioural problem or some other issue associated with that. We have sought, in designing community detention, to provide basic and proper accommodation in accordance with our duty of care and our statutory responsibilities. I certainly would not regard it as a holiday experience for people. My experience is that inevitably people are very anxious about their status. They clearly have expended a great deal of time and effort to come to Australia wanting to stay here. It is up to the department to properly work through whether or not they are so entitled. If they are not, to assist them to go home.

Senator CASH: There is no timeframe other than what you have stated.

Mr Metcalfe: There is no outer limit. Certainly some people, as we have seen over the years, will seek to use every possible opportunity to stay in Australia because they believe that that is where their future should be. It is a matter for the Australian government and Australian law as to whether that is in fact the correct procedure.

Senator CASH: The policy setting at the time.

Mr Metcalfe: Within the law.

Ms Pope: I might add four people have elected to go home voluntarily from CD already, and the evidence suggests that people who are living in the community who are in good mental and physical health better grapple with the decision to go home when the process has ended, also having the opportunity to build skills that may well enhance their opportunities when they return home.

Senator CASH: Where did those four people return to.

Ms Pope: It was a family with one child and a separate person. I cannot recall but I can get it for you.

Mr Metcalfe: I think that is an important point, without wanting to prolong the conversation. In the held detention environment I would argue that there is probably a lot of self-reinforcing behaviour. If a person is minded to say, 'Well, I am not a refugee, I should accept the fact and go home,' then they may well come under either direct or indirect pressure from others not to go along with that because they might see it as affecting their own situation. Of course in the community the person is not in that institutionalised environment and they can engage with their advisers and their case workers and the option of returning home is something that we discuss with people.

Ms Pope: Not to prolong the conversation yet again, but when someone is in a remote centre they cannot really see what life in Australia is going to be like and compares what they think is a life in Australia with their life at home. When they are actually living in the suburbs in a house that is pretty basic and life is pretty difficult, even though all of their assistance is provided, they do get to a point of comparing real life in Australia to life at home and can come to a more realistic decision than when they are sitting in a detention centre hoping for the green pastures of Australia and really not knowing what that might be like.

Senator CASH: Albeit, the evidence today is that four people have come to that realisation.

Ms Pope: They had not even completed the process and decided to go home.

Senator CASH: So they had not actually completed their process?

Mr Metcalfe: No, they changed their mind and decided to go home.

Ms Pope: They could have gone on but they chose to go home. We have only a few who are right through the process in community detention at this point, and we will see what happens as we move into a caseload that is more predominantly negative.

Senator CASH: In relation to the IHMS and the services they provide, what is the value of the IHMS contract for the 2011-12 period in the forward estimates?

Mr Metcalfe: Is that across the entire contract or just community detention?

Senator CASH: Could I get both figures?

Mr Douglas: There are a number of contracts we have with IHMS, reflecting different points in time at which they were reached. The community detention services are provided under what is known as the health services contract mainland, and that contract is for provision of public health services to people in detention.

Senator CASH: Is that closed detention or community detention?

Mr Douglas: People in detention, so it includes detention centres and community detention. As published on AusTender, the total value of that contract over its five-year life is \$273 million.

Senator CASH: Are you able to break it down into community detention?

Mr Douglas: No, I do not think I would be able to break it down by CD, but I will have a go, if you will allow me to take it on notice.

Senator CASH: Thank you very much. I would appreciate that. How much of the contract is for dental?

Mr Douglas: There is no separate contract for dental services.

Senator CASH: Is there an apportionment within the contract?

Mr Douglas: No, there is not. The way the contract works is that it is for the provision of primary health services to the standard that would be available in the community, so the kind of dental work provided is generally remedial work, for example. It is certainly not cosmetic or value-adding. That is arranged on an as needed basis; it is not separately purchased under a separate purchasing agreement.

Senator CASH: But the contract value is \$273 million.

Mr Douglas: Rounded up to \$273 million.

Senator CASH: And that is over—

Mr Douglas: Five years.

Senator CASH: And you will take on notice to provide the breakdown?

Mr Douglas: We will see whether we can provide a breakdown. We may have a go at breaking down some expenditure as opposed to budget on CD.

Senator CASH: That would be interesting; thank you. I will turn to Nauru. Who on behalf of the government went to Nauru in January?

CHAIR: Just before you do that, Senator Pratt has questions on community detention.

Senator PRATT: We have covered some of the issues behind community detention quite extensively, but I would like to know—we have not really outlined this—what the government's view is about the benefits of community detention. I know it has been going for about a year now. What are seen as the benefits of community detention as opposed to housing people in detention centres? We have just had one example about people being able to see what life in Australia is actually like. I want you, if possible, to touch on mental health outcomes, family wellbeing, children, health et cetera.

Ms Pope: At this point, this is an anecdotal response, but we are undertaking a review concurrent with the implementation that will give us better data on this. The general points I would make are as follows. Clients who live in community detention, and therefore have more responsibility for managing their own lives, can be expected to experience better mental health because they are living and operating as a person normally would. Improved family relationships are a consequence as well. Clients also have the opportunity to regain some of the living skills that they would have lost in the journey and in, potentially, their time in Indonesia, in detention and so on. That is beneficial to them, as I said before, whether they remain in Australia or return home. Similarly, for those granted visas, a better understanding

of life in Australia and opportunities to learn some English, make connections in the community and so on, should enhance their settlement prospects. We also expect to see some reduced downstream costs, which I think is what you are referring to, including the cost of mental and physical health services, family intervention services and other support programs. And there is the potential that time in community detention could facilitate a faster entry to the workforce once someone does get a visa. Clients are allowed to volunteer, so the opportunity to volunteer with an organisation or what have you, may lead to the opportunity for a job later on.

I think the other part of it is—as we were just discussing—that people who are well and feeling good about themselves can deal with the difficult decisions about going home more readily in the community than they can from within a centre. And they experience what life is really like.

Senator PRATT: Over what period of time will you be assessing? I suppose as community detention develops it will be an ongoing project to look at those outcomes. What kind of processes are you going through to demonstrate what kind of outcomes there are for those in community detention?

Ms Pope: The University of New South Wales is conducting the concurrent research for us. They are looking at a range of indicators such as the ones we have discussed. They are talking to a range of service providers; clients; Red Cross, as the lead agency; doctors; teachers and so on, to get a broad picture of what the improvements are likely to be. I can certainly say anecdotally—quite a number of advocates have commented on this as well—that people tend to improve in their mental health almost immediately. That does not mean that they do not necessarily have adverse reactions to things associated with their immigration pathway as they go along, but in general they deal with those things better than they had before.

We now have a growing bank of experience with vulnerable adult men, and the level of incidents and issues with them is surprisingly low, to date. They appear to get on with their lives and take the opportunities that community detention offers. When they are assessed as being in a state where that might be beneficial to them they also have the opportunity to move onto bridging visas and therefore to work—

Senator PRATT: A smoother transition.

Ms Pope: Yes. And at the right point in time—I am not exactly sure what the right point will be; it is an evolving issue—we will be looking at who in community detention could be considered for the grant of a bridging visa where that might work for them and for us. The main issue is not putting someone who is vulnerable at risk by granting work rights. Then the person has to be self-sufficient, particularly in relation to accommodation. So it is balancing those risks. That is the reason we are not intending to grant bridging visas to unaccompanied minors. But to the single adult men, if they are recovering and feeling up to it and have the opportunity, then it might be a good—

Senator PRATT: Would it not be efficient at some point, perhaps, to encourage people who can work appropriately to work and pay rent where they are as an easier transition?

Ms Pope: We do where we can. That certainly happens when people get a protection visa if they can transition into the house that they were already living in. We cannot really manage

mixed households of people in community detention and on bridging visas because the arrangements are different. But it might be that two or three men in a house of five might think that if they took a bridging visa they could, together, rent somewhere and make it work. Those are the sorts of things we hope to see come out of the program in the longer term.

Senator PRATT: Great. Thank you. I have other questions for these outcomes but I realise this is just on community detention.

CHAIR: I am going to put an offer to everyone, which I think you will not be able to refuse!

Senator CASH: You would be surprised!

CHAIR: We could keep working, and people could just get up and get a cup of coffee for the next 15 minutes, and we could agree to finish at 10.45—or do you want a break?

Senator CASH: I do not need a break.

CHAIR: That is my offer. We will keep going. Everyone can definitely have an early mark at 10.45. It might be good for us and our families if we finish at that time.

Senator CASH: Who on behalf of the government went to Nauru in January to scope out the costs of re-opening the processing facility?

Mr Metcalfe: Mr Douglas and another colleague.

Senator CASH: Was Mr Douglas accompanied by anybody?

Mr Douglas: I was accompanied by one of my very senior people, Mr Neil Mather.

Senator CASH: What is Mr Mather's position?

Mr Douglas: He is a director in my division with extensive experience in detention infrastructure.

Senator CASH: What is both your and Mr Mather's experience in conducting this particular type of scoping and costing activity?

Senator Lundy: It is more than the catering company's experience, Senator Cash.

Mr Douglas: Your description of my visit is not the description I would use. I undertook on behalf of the government, together with Mr Mather, a visit to Nauru to inspect the state of the former processing facilities to then provide briefing to the government on their suitability and the cost of restoring those facilities to detention or processing centres, depending on the government's decision. I would not have called it a scoping study.

Senator CASH: Okay, that is fine. But you gave the government the cost estimates?

Mr Douglas: My team provided that briefing.

Senator CASH: When you say team, who do you mean?

Mr Douglas: The team was me and Mr Mather. Then, on Mr Mather's return, he engaged the support of others in my division to help support him with additional information which he may not have had but from which he could draw together with his notes and the extensive photographs which we took—and, if the committee wishes to see these photos, Chair, I have a number of copies for the committee. From that information we then prepared the brief which went to the government and which outlined our estimate of the indicative costs.

Senator CASH: Had both you and Mr Mather been to Nauru before?

Mr Douglas: No, we had not. We were accompanied during our visit by the Australian High Commissioner to Nauru, who has obviously been there for some time now in his posting.

Senator CASH: Did the high commissioner have any input into the report?

Mr Douglas: The draft was shown to the high commissioner prior to our finalising it.

Senator CASH: Did he make any comment on it, or was it just shown to him as a courtesy?

Mr Douglas: I cannot recall. He was given the opportunity to comment, but I cannot recall whether he did comment.

Senator CASH: You say that when he got back here Mr Mather was able to converse with team members. Had any of those team members been to Nauru before?

Mr Douglas: I would have to take that on notice. However, most of those team members had extensive experience of being involved in setting up the detention centres—notably those which have been set up in the course of the last several years. That includes Curtin, Scherger, Pontville, Inverbrackie and Yongah Hill, which is presently under development. This is fairly extensive experience.

Senator CASH: I am particularly asking about Nauru. Will you get back to me as to whether or not any of those team members themselves had been to Nauru?

Mr Douglas: I will.

Senator CASH: Thank you. What is your experience in conducting this type of exercise—costing the reopening of a detention facility?

Mr Douglas: I have 34 years of government experience in program development and in service delivery and in providing advice to ministers and governments to meet estimated program needs.

Senator CASH: Have you provided this type of advice before in relation to the reopening of a detention centre?

Mr Douglas: There are not too many detention centres, thankfully, that need to be opened. I—

Senator CASH: So is the answer no?

Mr Douglas: I am trying to think. I have certainly been involved in providing advice in relation to our activity in constructing the detention centres that have been constructed since my time in the department over the last nine months. But I would say that, yes, this was the first time that I had authored a brief to establish a detention centre in a country outside of Australia.

Senator CASH: How detailed was the final report?

Mr Douglas: We have tabled that report for the committee, including the extensive photos, and that report—

Senator CASH: So this is the final report?

Mr Douglas: That report was also released by the minister.

Mr Metcalfe: I think the minister has published that report.

Senator CASH: So there was no other report that went to the minister? The report that has been made public is the report that was provided to the minister?

Mr Douglas: That is the final report. We have done no work since that time.

Senator CASH: There was no further, more detailed breakdown of the costings than what we have?

Mr Metcalfe: You have the report. Essentially, Mr Douglas as a division head in the department was the team leader. He took with him an expert in detention infrastructure and they drew upon the full resources of the department to provide the estimates of re-establishing the facility. The report, of course, also talks about operating costs of the facility, and that draws extensively upon our recent experience in operating centres in remote locations, including Christmas Island.

Senator CASH: On that basis, then, why are the operational costs five times more than the operational costs on Christmas Island?

Mr Douglas: I would have to ask my colleague Mr Sheehan to talk on operational costs.

Senator CASH: How did we get to such a high operating cost compared to Christmas Island?

Mr Sheehan: The operations overall require significant freight. The remoteness, obviously, of Nauru—

Senator CASH: It is more remote than Christmas Island?

Mr Sheehan: Just in terms of the distance from, say, Sydney. To take a plane from Sydney to Christmas Island and then to Nauru and then back to Australia, at a cost of probably about \$10,000 an hour, is quite substantial. There are significant additional costs associated with going to Nauru, not necessarily just in terms of airlines but—

Senator CASH: But five times the operational costs of Christmas Island?

Mr Sheehan: I would need to check the total annual cost of Christmas Island.

Mr Metcalfe: I do not think we are agreeing with the five times, but we are certainly happy to explain how the operating costs were established. One of the aspects is remoteness. We of course have extensive experience in operating Nauru from several years ago. There are aspects of staff accommodation and particularly obligations to provide appropriate standards of accommodation on the island. The hotel there is in a degraded state. So a variety of issues went into establishing those operating costs.

Senator CASH: If you are disputing that it is five times the Christmas Island cost, could you take it on notice?

Mr Metcalfe: That is your figure and I would just like to check that.

Senator CASH: Exactly. Provide us with the actual cost compared to Christmas Island. My understanding is that it is significantly more and our figures say five times more. Please let us know why that is so.

Mr Metcalfe: Yes.

Senator BOYCE: I mentioned some questions earlier today, Mr Metcalfe, and you said this was the right time to ask them. What is the department's process of identification and

recording of asylum seekers and refugees with disabilities to allow for service provision for them?

Mr Douglas: On their arrival at Christmas Island, the first thing that occurs in the processing of their arrival is they are taken through a series of health, security and identity checks. The health check is quite comprehensive. It is done on our behalf by IHMS, our contracted health services provider, which uses clinicians. It is a full range of physical tests. It takes, for example, chest X-rays to check for tuberculosis.

Senator BOYCE: That was not a disability the last time I looked.

Mr Metcalfe: It is a full medical check.

Mr Douglas: Yes, I am giving a 'for instance'. It also includes a mental state examination, but it also checks for the presence of any disabilities and whatever assistance is needed to be rendered to people with such disabilities.

Senator BOYCE: What about post-detention?

Mr Douglas: We have health treatment facilities on all of the detention centres. So, if issues arise, they are identified in the course of those clinicians' visits or examinations.

Senator BOYCE: What about, for example, people who use prostheses?

Mr Douglas: In fact, there are people who have arrived who have prosthetic needs. If they need prosthetic devices and they have not got any, we will meet their clinical need.

Senator BOYCE: By providing a prosthesis?

Mr Douglas: Yes, we will meet their clinical need for mobility.

Senator BOYCE: Are you looking at the Convention on the Rights of Persons with Disabilities when you are assessing how you respond to the needs of people with disabilities?

Mr Douglas: We are fully conscious of meeting all of our human rights expectations, and that includes provision of the full range of health care. It is one of the reasons why there is extensive health care made available in detention centres.

Senator BOYCE: What discussion has the department had with FaHCSIA around the National Disability Insurance Scheme? It was recommended in the initial NDIS report that asylum seekers be included in the National Disability Insurance Scheme.

Mr Douglas: I am involved in the health service provision, so we certainly have not had any discussions, but I am not sure whether my policy colleagues would have.

Senator BOYCE: Should I take it from the shaking of heads and looking around by the witnesses that the answer is you have not had any?

Mr Metcalfe: Senator, we will check. There are extensive conversations between departments on literally thousands of issues. We do not have direct knowledge of that. That is not to say it has not happened; it is just that we do not have direct knowledge about that here at the table.

Senator BOYCE: Has there been an audit into the accessibility of all our onshore and offshore detention centres to ensure that they are compliant with the Australian disability access standards?

Mr Douglas: There has not been an audit, but all of our new detention centres, and I would say from the construction of North West Point onwards—

Senator BOYCE: Perhaps it would be better if you could put a date on it for me.

Mr Douglas: North West Point was constructed in—

Mr Metcalfe: It was commissioned and handed over in October 2008, and it was first occupied in, from memory, about December 2008.

Mr Douglas: Yes, about that.

Mr Metcalfe: It is essentially the first purpose-built centre that we have had for many, many years. There were of course temporary facilities established some years ago as well.

Senator BOYCE: So they have been designed to meet the building standards for disability access?

Mr Metcalfe: That is correct.

Mr Douglas: And the Disability Discrimination Act standards.

Mr Metcalfe: And the Public Works Committee, of course, is involved in those examinations.

Senator BOYCE: But of course there would be a lot of properties that you are still using that were commissioned way before December 2008.

Mr Douglas: Not that many, in fact. There would be about a handful: Melbourne, Perth, Villawood—

Mr Metcalfe: Certainly the main onshore centres, Villawood being the largest, which is largely converted migrant flats from the sixties, together with a more secure centre. Maribyrnong and Perth are old centres, and with Villawood we are in the process of a major renewal program. I think over \$200 million is being spent to bring it up to a much more modern facility. In relation to the compliance of Maribyrnong and Perth, I do not know whether they have been recently certified, but we certainly are conscious of the needs of any clients who have disabilities in terms of provision of proper facilities.

Mr Moorhouse: Could I just add to that that of course we have a choice in where we place people within the detention facilities because we do administer a network. If disabilities are identified as a person comes into detention then we seek to place the person in an appropriate facility in the detention network. For example, I have a list of people here with identified disabilities as of 7 February, and all of those are in the more modern facilities—with the exception of one person, who is blind in the left eye and is in the Perth IDC.

Senator BOYCE: Mr Moorhouse, you have anticipated my next question, which was whether you could provide me on notice with the number of people with disabilities and the types of disabilities in each centre. I realise that in some situations you may need to bundle to preserve the privacy of individuals, but it would be good if you could give me as much detail as possible, and also give me detail about what disability access facilities are available in the pre-2008 centres—for instance, whether the toilets and showers accessible for people with a disability.

Mr Metcalfe: We will take that on notice.

Senator BOYCE: The Commonwealth Ombudsman in his most recent report mentioned a lack of privacy for people with disabilities as an issue. If all these people with a disability are going into these wonderful new facilities why did the Commonwealth Ombudsman note that?

Mr Metcalfe: We will take that on notice.

Senator BOYCE: You think there are people experiencing lack of privacy?

Mr Metcalfe: The Ombudsman would not say that if he did not have a concern, but I would like to get to the bottom of the concern to see how extensive it is.

Senator BOYCE: But that report has been out for some time. That has not been brought to your attention before, Mr Metcalfe?

Mr Metcalfe: I get lots of reports from lots of the people.

Senator BOYCE: I would have thought you would have staff who read them and say, 'Oi, we should look at this bit.'

Mr Metcalfe: I was about to say, Mr Moorhouse or his colleagues may have more direct knowledge to me on that.

Mr Moorhouse: I appreciate the point in terms of lack of privacy. Not all of our facilities provide people with a high degree of personal privacy. For example, in Pontville, where a number of people with disabilities are located, there is not the same degree of privacy as in some other facilities. So there is a trade-off—

Senator BOYCE: In what sense is there not a degree of privacy?

Mr Moorhouse: Facilities in Pontville have former army huts that have been divided into cubicles. So there is a degree of privacy but not the same degree of privacy as having your own separate room.

Senator BOYCE: Given what you said before, why are they in Pontville?

Mr Moorhouse: We are running a large network. What I am saying is that we have the capacity to place people according to their particular needs. But privacy was—

Senator BOYCE: But you need to prioritise needs. Within those, people with disabilities—

Mr Moorhouse: I would just like to give you the reassurance that a person's disability is a significant issue for us and for our detention services provider. We do go out of our way to try to ensure that people are receiving appropriate care. Even today, for example, during the briefing I was being briefed by someone who has just come back from Christmas Island briefing me about the care that is being provided to a child who has recently arrived who has autism. The manager of the Phosphate Hill detention facility where he and his family are located has gone to the trouble of setting up a cage and facilities for chickens so that he can care for them—

Senator BOYCE: You had me worried there for a moment—what the cage was for!

Mr Moorhouse: So that he can collect the eggs every day to give him a focus for his attention. The reason the person mentioned it to me—they did not know you were going to ask me this question—was that they just thought it was lovely that the Serco manager had gone to this trouble to be able to provide something stimulating for this child—man, I beg your pardon.

Senator BOYCE: Thank you, Mr Moorhouse. I may put some other questions on notice.

Senator PRATT: I had a question about the onshore detention network and then some others about Nauru. Mr Metcalfe, you will recall at previous estimates that the department

made a clear statement that it is not policy to address people in detention by a number. Despite this, I am still receiving advice from people that they have witnessed staff addressing detainees in this manner. A. I would like to know what the department has done to address this practice and prevent it from happening.

Mr Moorhouse: It is certainly something that we have had a number of interactions with Serco in relation to. I am conscious that Serco as an organisation takes it very seriously and there has been a number of communications with their staff. My belief is that it is practice for people to be referred to by their name. It is, however, also a practice within our network to use a person's boat identification number as a way of reliably identifying that particular person. As you would appreciate, there can be common names that people have. So the use of a boat ID avoids potential confusion or mixing up people, which is tragic in the situation we are managing. What I am trying to say is that it is my belief that Serco place a large emphasis in training their staff on addressing people by their names, but I am conscious that there are circumstances where confirming the boat ID is important—and there may be individuals who lapse or who do not pay attention to that.

Senator PRATT: By way of example, would it be appropriate for a Serco staff person to walk into a room where there is a group of detainees and say, 'Is number such and such here?'?

Mr Moorhouse: That would be inappropriate.

Mr Metcalfe: Senator, if you have specific details, times, places, please let us know and we will follow that up directly with Serco.

Senator PRATT: Okay. Thank you. I have some questions in relation to the costings in relation to Nauru. I note that the government has made public the briefing it received from DIAC regarding Nauru and its costings, so I assume you are okay with having further discussion about that. I would like to ask: what were the circumstances in which the government asked for this briefing on costings? Was it during the ongoing talks that were occurring with the coalition regarding offshore processing?

Mr Metcalfe: The initial question from the minister or his office came to the acting secretary of the department—I was on leave at the time in early January. That was Mr Vardos, so he would be able to describe to you the circumstances of the requests and what he did as acting secretary to put that into effect.

Mr Vardos: I can confirm that a range of material was requested of the department to support the minister's engagement with members of the opposition he was talking to in relation to offshore processing and similar matters. One of the pieces of information he requested was detailed costings on Nauru as well as a couple of other matters as well.

Senator PRATT: Thank you. We have touched on this already this evening in relation to the suggestion that Nauru would be five times the cost of the facilities on Christmas Island or Curtin, and that you could build a casino for the same amount of money. Has the minister at any time asked the department to artificially inflate the costings or facilities there at all?

Mr Vardos: Not at the time that I was acting secretary and I doubt any time after that.

Mr Metcalfe: I have had discussions with both Mr Vardos and Mr Douglas—and others. At no time was there ever such a suggestion made, implied, requested and I would have been

horrified if it had. The department in providing this type of material would seek to undertake it in a purely partial and professional way based on our extensive experience in this area.

Senator PRATT: My next question was in regard to the infrastructure that is left at Nauru and the condition of the sites, but I do note that a document has been tabled.

Mr Metcalfe: We have circulated some photographs that were taken by Mr Douglas and his colleague when they were there. That is obviously a pictorial example of what is there, but there are obviously issues about services, power and those sorts of issues that would be relevant as well.

Senator PRATT: So for the purposes of the *Hansard* record, as a result of that visit, how would you describe the conditions of the sites and the current use of either of the sites that are still operational?

Mr Douglas: Both sites, not unsurprisingly, are being used by organisations on Nauru. One of the sites is used and has been used quite extensively by the Nauru Rehabilitation Corporation, which is aiming to undertake significant rehabilitation work following the phosphate mining.

Senator PRATT: Is that the plants that you can see?

Mr Douglas: That is correct. They have put in place on one of the sites an extensive propagation facility. They have reorganised, particularly for the former administration area, to suit their own needs. That is in a very good state. The accommodation facilities are much less so. In fact, as you will see from the photos, a number of the formal accommodation blocks have been parked on temporary piers and are very unstable. They have been open to the elements over time. The advice we had was that there had been a significant amount of unlawful use of electricity, which required them to undertake significant work to disconnect that activity—even simply disconnecting the power did not seem to be enough. All of the beds, air-conditioners et cetera have been removed and there has been deterioration in the woodwork by being open to the elements over time. Certainly in that facility there is no water storage, for example, and there is very little in the way of waste treatment—sewage management.

At the other facility, the State House site, there are about four or five government departments and instrumentalities, including a relocated public school operating at the site. The warehouse, which had a very sophisticated racking system which was used for the former processing centre, has now become the government stores depot. If anyone were to use that facility as a processing centre, of course, there would be significant relocation of those instrumentalities. Once again, the accommodation there has suffered from deterioration over time. There has been the need to disconnect electricity and remove all of the beds, chairs, tables and so forth. The commercial kitchen there has deteriorated quite a bit. It is still in use. It is used for hotbox dinners and meals for the kitchen. It requires a significant amount of reinvestment as well. The advice that we have from the island is that there is certainly enough electricity but there would be need for an additional reverse osmosis plant for water generation. Once again, waste management is a significant issue. The existing waste treatment facility on the island is reaching its capacity and probably would require an additional unit to be built at some stage. Once again, water storage, waste management and sewage treatment at both sites would be an issue. There is quite a lot of degradation over time. There are no shade

ways and no covered walkways. There is very little in the way of amenity, which we would be required to provide.

Senator PRATT: They are all key factors that limit the site from being used again. You have explained some of the infrastructure restraints that would limit the site being used again. What other factors limit this—

Mr Douglas: Staff accommodation would be a big issue. The former facility's accommodation was provided at the Menen Hotel, which is a government operated facility. The brief we provided to the minister estimated in the order of \$20 million to refurbish that facility up to a standard which we think would be suitable for people to stay in. Once again, there has been deterioration over time. It was certainly a fine building in its heyday, but, with the passage of time and being, of course, located right on the coast, with permanent sea spray, there is accumulated rust. The ravages of time takes care of most of such facilities. If Australian staff were to work, for example, in processing claims, undertaking assessments, providing review activity, identity checks et cetera and were required to stay there, then we would anticipate that Australian health and safety laws would apply. In those circumstances, we believe significant work would be necessary to refurbish that accommodation.

Senator PRATT: Do you believe it is possible to house more than 1,000 asylum seekers at the sites, at Topside and State House on Nauru, according to Australian standards?

Mr Douglas: If we were asked to, we would probably go away and try and find how we could. But, on the basis of what we saw, I do not believe that we could, within a short space of time, establish accommodation sufficient for 1,000 people to be detained there. Over time, that may be possible, but we would think that, to begin with, the level of overcrowding that would be necessary to achieve that would produce an unsafe working environment.

Senator PRATT: So it would be challenging to meet Australian standards, to say the least?

Mr Douglas: It certainly would be.

Senator PRATT: Just to clarify: there is not currently adequate water to operate a processing centre on one of the sites?

Mr Douglas: There is a very good water supply there now, but to bring in those additional people there would be a need for additional water supply. At Topside, there is no water storage.

Senator PRATT: I was a bit unclear about the difference between the two sites. The operational costs have been revised considerably, and I just wanted to get to the bottom of why that figure has changed. Is it flights and the extra cost of having Australian staff that far from Australia?

Mr Metcalfe: I will ask Mr Sheehan to comment. Essentially, the way that this work was done was that Mr Douglas and his colleagues undertook a firsthand survey. For the record, we should thank the government of Nauru for facilitating their visit; it was very good of them. They were able to get firsthand experience and a detailed understanding that could then be used by our experts—and I would argue that there is no-one in Australia more expert in constructing detention centres than our department, sadly. We then applied the aspect of the operating costs based upon the known facts—and, again, that is based on extensive experience operating in remote facilities such as Scherger, Curtin and Christmas Island.

Again, just for the record, there was no gilding of any lilies here; this was as factual as we could make it, bearing in mind that there are assumptions that have to be made in these situations. But Mr Sheehan can add to that answer, I think.

Mr Sheehan: Obviously the model is different. The original costing was based on 1,500 and the costings in January were based on 750. There were substantial changes—for instance, the detention service provider. The initial costings did not include pass through costs that were about \$5 million a month, which in effect was about \$240 million over the four-year period. In addition, the 1,500 had been based on Curtin facility costs but the 750 was based on a Pontville model, which was closer to the 750 rather than a large-scale facility. So we got a better sense of what the cost would be for the size. There were also health services costs that were initially based on the contract for Christmas Island as the base costing. But we revised the costing based on recent experience for the negotiations we had had at Scherger. So we tried to actually pick current costs, if possible, based on, for instance, Scherger, and ensure that we had the right drivers to understand what the costs might look like. They are the three major areas where the costs were substantially different.

Senator PRATT: I note that there has been a lot of discussion and debate about the origin of the original facilities in terms of who built them et cetera. Who set up the original facility on Nauru and who operated that facility?

Mr Metcalfe: The original facility on Nauru was established on an emergency basis by the Australian Defence Force. It consisted of tented and demountable accommodation. Essentially it was an engineering task provided by the Department of Defence. Fairly quickly, though, management and control was handed to the International Organisation for Migration, who undertook the overall civilian establishment and management of the centre on behalf of the Australian government.

Senator PRATT: I think we have touched on some of the additional logistical challenges, but, other than staff and travel, what other challenges are there? Clearly, it is a foreign jurisdiction, for a start.

Mr Metcalfe: Seeded within the overall aspect of our facilities, as well as staff, is that, depending on how you wanted to operate the model, there would be the need for extensive medical and other capability to be added to the island. One of the principal ways that Nauru has operated in the past was essentially a supposition that only in the rarest of circumstances would someone come to Australia if there was emergency medical treatment required—only in the very direst of circumstances—whereas, of course, under the current model with Christmas Island, if someone is in need of a medical evacuation they are brought to Australia. It is just a matter of course.

In that situation you therefore to set up a hospital capability that substantially exceeds that that might be currently present on the island, noting that many people in Nauru, if they need medical attention, come to Australia to receive it. It is those sorts of issues, together with ancillary costs—interpreters—depending on the model to be employed, the level of security. The costings, I think—Mr Douglas can perhaps help me here—assume a level of security which, if not present, would represent a saving of probably \$20 million—

Mr Douglas: \$36 million.

Mr Metcalfe: About \$36 million. So there are number of issues as to how you would actually operate the centre. It is remote, of course, in physical terms. But it was operated in the past under those circumstances.

Senator HUMPHRIES: Sorry to interrupt, Chair, but we have now been going almost half an hour, and

Senator PRATT: Have we? I beg your pardon.

Senator HUMPHRIES: there are other senators who want to go to other areas. We also want to touch on outcome 5. Senator Pratt, will the questions take much longer?

Senator PRATT: A few more minutes? I am happy to do them later or I can do some—

CHAIR: Another five minutes.

Senator PRATT: Okay.

Senator HUMPHRIES: Thank you.

Senator PRATT: I want to know the air and sea freight costs for Nauru relatively speaking. How much does it cost to transfer people, for a start, and then how much does that contribute to a running cost? That would include asylum seekers and detainees, but clearly staff movements as well.

Mr Metcalfe: I think we would have to take the detail on notice. I can say that there is a significant logistical issue, in that, ordinarily, if people were to be transferred to a Nauru centre, the working assumption is that they would be coming from Christmas Island. They would be people who came in vessels to the north-west of Australia, were detained by the Navy or Customs, were taken to Christmas Island for initial processing and were then transferred to Nauru. In that circumstance, the most likely air charter would be an air charter leaving Australia, going to Christmas Island, then flying to Nauru—and having sufficient capability to do that—and then returning to Australia. In other words, it would be a triangular movement probably over a couple of days, depending upon the crew requirements and other things. That has a very substantial effect of ramping up costs, because there is no aircraft just sitting on Christmas Island waiting to just come and go in that circumstance. I think that is one of the factors that Mr Sheehan took into account.

Senator PRATT: We touched before on the companies that had been involved in the original Nauru facilities. Has the department ever contacted or got advice from Eures or DeltaFM about costings for Nauru for a new facility?

Mr Metcalfe: That goes back some time. I will take that on notice. I have a recollection that IOM may have contracted with Eures as a provider of some services. But that does go back some years since the facility was operated, so I will take that on notice.

Mr Douglas: The company did make an approach to us when there was some discussion about the possibility of Nauru in the media. We took their details and said that if any decision was made we would come back to them.

Senator PRATT: So there are no current costings from the companies?

Mr Douglas: We have no contact with them in any Australian detention business.

Senator PRATT: You would not have a view about the merits of any of the costings that they may or may not have done?

Mr Metcalfe: I do not think it is appropriate for us to go into that, Senator. Others can judge whether they are a credible source of costings.

Senator Lundy: I will resist the temptation to provide some political commentary on that, but I think it has been given an excellent going over over the last few days. The opposition's credibility has been incidental.

Senator PRATT: My last question is—and I am cutting it short; I did have some others. There have been claims that it would be possible to run a facility for more than 1,000 people for about \$200 million a year. Clearly, none of the evidence that I have heard tonight would demonstrate that could possibly be true.

Mr Metcalfe: I think we stand by the advice we have provided and which has been made public.

CHAIR: Senator Abetz, we will go to you now.

Senator ABETZ: In response to Senator Cash's question, you advised earlier this evening that four people had voluntarily returned home. Take it on notice if you like, but do we know how they arrived in Australia?

Mr Metcalfe: We will take it on notice. I think the answer is almost definitely that they arrived as irregular maritime arrivals—in fact, they were. The question is answered.

Senator ABETZ: Moving to Pontville, can we be absolutely assured that it will be closed as of about a fortnight's time?

Mr Moorhouse: That is the basis on which we are working.

Senator ABETZ: And that has not changed?

Mr Moorhouse: That has not changed.

Senator ABETZ: Thank you. So no new arrivals will be coming in the next fortnight or so?

Mr Moorhouse: No.

Senator ABETZ: What arrangements have been made to take those that are currently there to other detention centres?

Mr Moorhouse: We are currently working through the detail of that. There are three options for people that are there. They include bridging visas, community detention and transfer to other facilities. We are trying to work through that so we can produce appropriate outcomes for the people concerned. Certainly for those people who have been in detention for extended periods we would prefer to be looking at community detention or bridging visas, although there are a substantial number of people in Pontville who have only been there for a relatively short time—I say a relatively short time—and we will be working with those people to identify what is going to happen with them, but we have not yet come to conclusions, so we have not yet advised them of that.

Senator ABETZ: If people move to community detention, will the department be organising or arranging accommodation for them within the community through leased houses?

Mr Moorhouse: That is correct.

Senator ABETZ: Will, let's say, neighbours, local police stations, even ambulance stations et cetera be advised of that and of the placement of these people within the community?

Mr Moorhouse: We have been through that to some extent already, but it is not our practice to let people know in advance that this is occurring. These are—

Senator ABETZ: That is what I have been told.

Mr Moorhouse: They are people like any others who are moving into a suburb like any other person would.

Mr Metcalfe: Ms Pope gave a fair degree of evidence on this earlier.

Senator ABETZ: I will read the *Hansard* as to that, but there have been some expressions of concern. When will the fence come down?

Mr Moorhouse: We have not got to the stage of deciding what we will do with the facility after it has ceased to have clients accommodated.

Senator ABETZ: At the public meeting at the Brighton hall, officials of your department indicated that, once the centre was finished, the security fence would be coming down and removed. Has that position changed?

Mr Moorhouse: When we constructed the facility, we constructed it in a way such that costs could be minimised and that facilities could be reused. The facility was constructed a relatively low cost—again, I emphasise relatively—compared to other facilities. We built into the design the capacity to reuse some of the components of the construction.

Senator ABETZ: Can you please check up to ascertain whether or not any assurances were given at the public meeting, I think it was in April, about the removal of the fence and whether that position has changed. Moving onto the charter flight for the first 35 detainees, which cost \$185,900, can I be told, possibly on notice, how many other charter flights were used to get detainees to Tasmania and the cost of each one of those?

Mr Moorhouse: I would need to take that on notice.

Senator ABETZ: Thank you. There were stories in the local media that some of the detainees had engaged in a hunger strike. Is that correct?

Mr Moorhouse: There were a small number of people who engaged in a hunger strike, yes.

Senator ABETZ: Were any of those hospitalised?

Mr Moorhouse: To my knowledge, none of them were taken to hospital as a consequence of voluntary starvation. There was quite a significant amount of misreporting in the media. There was discussion of 150 people engaging in a hunger strike. That is completely incorrect. From the information available to me, the maximum number of people involved at any one time was 10 to 12. The information I have is that it was not an organised demonstration; it was a number of people responding or reacting to decisions in relation to their applications.

Unfortunately, it is not uncommon for people to sometimes respond to adverse decisions in this way. Staff of the department and of the detention services provider engage with people and talk to them about their circumstances and usually they will voluntarily end their starvations within a very short time. That is what happened at Pontville.

Senator ABETZ: Was the Royal Hobart Hospital ever told that they could not comment publicly on whether or not they had detainees within the hospital?

Mr Moorhouse: I am conscious of the media reports in relation to that. Of course, the context within which it was made was in the context of the allegations in relation to a mass hunger strike. As I said, as far as I am aware, there was no-one involved in a hunger strike who was transferred to Royal Hobart Hospital. People have been transferred for other reasons, such as injuries and medical conditions, and there is a protocol in place with the hospital—as there is with other service providers—where we ask them to refer media inquiries to our communications branch in Canberra to assist in responding accurately to those. There is of course a desire to protect the privacy of the people in detention.

Senator ABETZ: Names were not being asked for. As I understand it, the question was asked by ABC radio, in particular, as to whether there were people in the Royal Hobart Hospital in relation to the hunger strike, and the Royal Hobart Hospital, as I understand it, indicated that they were told not to respond.

Mr Moorhouse: It is correct that there is a protocol in relation to contact with the media that we ask service providers to observe. But it is incorrect that we instructed the hospital that they could not comment in relation to the hunger strike, because there was no-one that I am aware of in the hospital as a consequence of the hunger strike.

Senator ABETZ: Well, all we have to go on is the media reports in relation to that. Did we ever finalise the memorandum of understanding with the Tasmania Police?

Mr Moorhouse: We have done, yes.

Senator ABETZ: When was that finalised?

Mr Moorhouse: One of my colleagues can probably help me with the date, but it was relatively recently. I am advised that it was 6 February.

Senator ABETZ: So it was 6 February 2012?

Mr Moorhouse: Yes.

Senator ABETZ: So we have finally finalised the memorandum of understanding with Tasmania Police three weeks before the centre is to be closed. Well, speedy Gonzales!

Mr Moorhouse: I note your comment. It is a complex process of negotiating MOUs. There are several comments I would like to make in response. The MOU does not only relate to the Pontville detention facility. The MOU has a number of different elements to it that were negotiated between the various state and territory police forces and the AFP, and including the service provider and the department. The core elements of the MOU have been agreed for some time. There are a number of elements that require particular attention—for example, things such as indemnity clauses and financial compensation—and it is appropriate that we look very carefully at those sorts of issues before we sign an MOU.

Senator ABETZ: And one would have thought that it would be a very good idea to look very carefully at those sorts of things before you started having detainees in detention centres in Tasmania where these things might arise. But that is editorial comment. How many people have been released into community custody in Tasmania?

Ms Pope: I believe it is 21.

Senator ABETZ: In response to an answer, I was told 'nine primary healthcare professionals were employed full time at Pontville'. What are 'primary healthcare professionals'—for a layman like me?

Mr Douglas: They are general practitioners, nurses, counsellors—those sorts of people—providing primary care services to detainees.

Senator ABETZ: This could have been a GP, a nurse, counsellors—we have nine mental healthcare professionals as well. Can you take on notice what the 'nine primary healthcare professionals' included?

Mr Douglas: It would be GPs and nurses, but I will give you precise details on notice.

Senator ABETZ: That would be very helpful.

Mr Douglas: This is a follow-up to the question on notice that you asked at the last hearing, I believe.

Senator ABETZ: Yes, you answered it—SE11/0304 is the one I am referring to. Let us move on.

Mr Kelly: Can I just add one more statistic. Ms Pope referred to those people in community detention. We also have one person granted a bridging visa E, as of 31 December, living in Tasmania as well.

Senator ABETZ: I turn to question No. 673 which I asked on notice on 30 May 2011. We finally got a response to it some time this afternoon, after numerous letters to the minister and raising the issue twice in the Senate. What date was the initial answer sent to the minister's office?

Mr Metcalfe: We will have to check.

Senator ABETZ: Please take that on notice. Were the descriptors in relation to the contraband altered in any way from the initial draft to the answer that I have received?

Senator Lundy: What sort of question is that?

Mr Metcalfe: I will take that on notice.

Senator ABETZ: What sort of question that is will now be revealed to you, Senator Lundy. There are eight pages of contraband, so it is a very extensive list. One wonders where all this materialises from. There is even a step ladder, but I will not be asking how that materialised and got in there. It just beggars belief. There is a 'smoking implement'. I assume that is not a cigarette holder that Marlene Dietrich might have used. What does 'smoking implement' actually mean? Are we talking bongos?

Mr Moorhouse: I cannot tell you that. The list that we provided to you was the list extracted from the records we have that are collected by each detention facility. I think that went back to about 2008. The list includes things that have been prevented from being brought into the centre—in other words, that were identified as a result of the checks before people are brought into the centre as well as things identified within the centre.

Senator ABETZ: A 'smoking implement', a pipe, of itself would not be contraband, would it?

Mr Moorhouse: I would not have thought so.

Senator ABETZ: And a cigarette filter would not be contraband?

Mr Moorhouse: I would not have thought so.

Senator ABETZ: So what are we talking about when we are talking 'smoking implement'? What was the nature of this smoking implement—if it was not a pipe or a cigarette holder—that made it contraband?

Mr Moorhouse: We will ask Serco what they mean by that description.

Senator ABETZ: Can you also ask them whether 'green leaf matter', which is another descriptor, refers to peppermint tea or does it refer to a substance that might be inhaled if lit?

Mr Metcalfe: We will check to see whether forensic analysis has been undertaken to indicate that it is, in fact, a prohibited substance or whether it was a mulberry leaf.

Senator ABETZ: Under normal circumstances, are mulberry leaves contraband in detention centres—because I think there might be a mulberry tree growing in one of them.

Mr Metcalfe: I think, if you have detailed questions, it is best if we check accurately to make sure we give you a proper answer.

Senator ABETZ: I asked for this list. It has taken nine months to get it and then we are given all these euphemisms which really do not take us any further. What is nonprescribed medication?

Mr Moorhouse: It is medication that was not prescribed to that particular individual.

Senator ABETZ: Could that include drugs that are of an illegal nature?

Mr Moorhouse: It could include drugs, but the key point is that it was identified and taken away. In the detention facilities, as you know, there are several thousand people who are detained. They come from a range of different profiles. They are not all IMAs.

Senator ABETZ: I fully understand that. All I want to know is, what do the descriptors mean and why do we have such euphemistic titles for non-prescribed medication, greenleaf matter, smoking implement. Then we have a number of insertions of 'non-permitted item'. What does that tell us? That it was non-permitted. Was it a rifle? Was it a knife?

Senator Lundy: Senator Abetz, now you are just trying to be sensationalist. The officers have said that they will get back to you on notice. I suggest that we leave it at that.

CHAIR: Senator Abetz, Mr Metcalfe has said it is terminology that Serco would use and they would need to get that clarified.

Mr Metcalfe: Now that the material has been provided, if Senator Abetz has specific questions as to—

Senator ABETZ: So we can wait another nine months to get the descriptors described?

Mr Metcalfe: All I can do for you is take it on notice.

Senator ABETZ: We have white powder. Why is powder contraband unless it is of a particular nature?

Mr Moorhouse: In relation to the greenleaf matter and the white powder, they are accurate descriptors of the contraband that was confiscated by the detention services provider. The detention services provider does not know what a white powder is or what greenleaf matter is when it is confiscated. Those substances are referred to the police and, if the police believe there is a basis for prosecution in relation to any other matters, then they follow that up.

Senator ABETZ: Am I talking tea leaves and talcum powder?

Mr Moorhouse: To my knowledge the police have not pursued a prosecution in relation to drugs within a detention facility, but it does not mean that the detention service providers are not assiduous in trying to ensure that drugs do not get into the facility. If a substance could be a drug then I would hope that you and I would expect the detention services provider to identify it, report it and refer it to police, which is what they have done in each of the examples that you have given. The description is an accurate descriptor of what was found. We cannot describe whether it was Omo washing powder or heroin, but it was referred to the police.

Senator ABETZ: If it was found to be Omo washing powder, was it returned?

Mr Moorhouse: I do not know.

Senator ABETZ: If it was lawn clippings, were they returned?

Mr Moorhouse: They would not be in either of those circumstances.

Senator ABETZ: Even if the substance they had was not contraband. Why is it illegal for a detainee to have a pouch full of lawn clippings on their person? Why wouldn't that be given back to them?

Mr Moorhouse: If they wanted to have that then they would be unable to have that.

Senator ABETZ: Let's find out what the descriptors actually mean and let's have some proper descriptions, please, next time round.

Mr Moorhouse: The point I was trying to make, Senator, is that I do not believe that we will be able to go beyond those descriptors. I have asked, 'What does this mean,' and the answer I have had is that in each case the substance is referred to the police for investigation. If it is identified as a drug then it is pursued by the police, but that has not happened as far as I am aware.

Senator ABETZ: Nothing that is of a greenleaf matter, no smoking implement, no white powder—all these things are all benign, innocuous items.

Mr Moorhouse: That is a matter for the police.

Senator ABETZ: As I understand it, you have never been told that any of these items are anything but benign.

Mr Moorhouse: No, I said that they had not resulted in prosecutions.

Senator ABETZ: And that might be for a variety of reasons.

Mr Moorhouse: I am not aware of the reasons.

Senator ABETZ: Are we at all concerned that drugs might be getting into the detention centres, or that marijuana might be, or that lethal weapons might be?

Mr Metcalfe: That list shows that there is a very detailed and proper searching for material that is suspicious or should not ordinarily be in the possession of a person in a detention centre. The presumption is that if they do not have a good reason to have it then they should not have it and it fits into one of those contraband areas and it is taken from them. If there is a suggestion that it might be an illegal substance then it is referred to the police.

Senator ABETZ: There are huge numbers of scissors, for example. From where and how do they materialise in the detention centre?

Mr Metcalfe: They could well be from a craft or other activity. Short of frisking people every time they come and go—people will have access to that type of material and that will be found in searches and taken as material that people should not have with them.

Senator ABETZ: And there were 29 knives?

Mr Metcalfe: Same reason. People have access to knives to eat their lunch.

Senator ABETZ: Pornography, a stepladder, rope, 62 instances of alcohol. How does that get in the place?

Senator Lundy: Senator Abetz, this ought to fill you with confidence that the situation is being managed effectively.

Senator ABETZ: No, it does not when all these items are found in detention centres. I would have preferred that there was a zero scorecard rather than eight pages of detailed contraband.

Mr Metcalfe: If it was zero it would mean Serco was not doing its job. We are not talking about maximum-security jails. We are not talking about situations where there is no physical contact between visitors and detainees. I do not know which centres you might have been to yourself, but there are visitor centres and it would be, frankly, impossible and unreasonable to prevent visitors taking all materials into centres and transfers occurring. What that list shows you I think is the very substantial activity by the service provider of looking for material that is not intended to be in the possession of people, and taking it from them.

Senator ABETZ: It says that the detention service provider may develop individual behavioural agreements with clients who exhibit illegal or antisocial behaviour. Is that correct?

Mr Moorhouse: Yes.

Senator ABETZ: So we do not necessarily prosecute people who may be in possession of dangerous weapons or drugs or indeed syringes?

Mr Moorhouse: If there is a basis for prosecution, if there is a reason for prosecution, we prosecute people. But if there is no basis for prosecution then we are not able to do that. If a person takes their dinner knife away from the table and takes it to their room then when their room is searched that dinner knife is confiscated. There is no basis for prosecuting a person taking a dinner knife from the canteen to their room; it is simply confiscated.

Senator ABETZ: I assume they are not served alcohol at dinner.

Mr Moorhouse: No, they are not served alcohol at dinner.

Senator ABETZ: So how did 62 instances of alcohol get discovered?

Mr Moorhouse: As the secretary mentioned, there are visitor procedures in each of the facilities that we manage. While visitors are required to put their bags and so on through an x-ray machine and they have to walk through a metal detector themselves, we have no powers to search people. We have very limited powers to search people's clothes—only in the most extreme circumstances are we able to do that. So it is not possible to preclude people from bringing things into a detention centre. As the secretary mentioned, it is not a high security jail. We have to work with the laws and the powers that we have available to us. The thing that does and should lend confidence is that the things that are on that list have been detected and confiscated.

Senator ABETZ: So the more we find the better the detention centre is run. The more alcohol, the greater confidence we should have in the way the detention centres are run. That is a very strange set of KPIs, Mr Moorhouse.

Mr Metcalfe: I am sure you would recall when you were customs minister the fact that we never knew that we were finding all the drugs coming into the country but we were finding some. If we were finding none, that would mean that Customs were asleep. They were not sleep; they were doing their job. But I do not think your old department would ever have told you that they were detecting every drug coming into the country.

Senator ABETZ: I do not know where you are getting this from. I was never customs minister. That is a good story, but I will leave it at that, thanks.

Mr Metcalfe: In terms of illegal fishing, then, Senator. It is the same issue. We have an active process of seeking to engage with people in centres and educate them about what is proper and what is not. There are arrangements in place with everyone in detention centres, but they are not high-security detention facilities. They are centres where people come and go and we undertake a very healthy program of checking regularly to see if they have things they should not have.

Senator ABETZ: With illegal fishing, we called it illegal fishing. We did not use the euphemism of sightseers engaged in recreational pursuits and let people try to guess what the recreational pursuit was. We actually called things what they were and we stamped it out.

Mr Metcalfe: We called green leaves green leaves, Senator. I think we have been through the issue—

Senator ABETZ: Round and round the mulberry bush we go.

CHAIR: We will go to Senator Furner's questions now and that would be the end of outcome 4, I think.

Senator FURNER: Mr Metcalfe, just reflecting on some of the evidence you gave last estimates, in October 2011, in particular regarding tow-backs. You made a statement during those estimates. I just want to know whether you still stand by that statement. You said: 'I do not believe that tow-backs are operationally feasible.' What did you mean by that?

Mr Metcalfe: That was based upon advice I have from discussions and information in discussions with senior colleagues. The point was established that I have no operational responsibility for any maritime assets and, therefore, it is in my position as secretary of the immigration department and having been involved in these matters on a whole of government basis for many years that I offered those comments. I simply offered the view that people smugglers are very enterprising and they are very adaptable. They often move to take countermeasures to policies and arrangements put in place by the Australian government. One of those countermeasures that they put in place has clearly been to indicate to people that they should render themselves into a rescue at sea situation by disabling the vessel or possibly significantly disabling the vessel so that the vessel may not in fact be able to be returned. There was subsequent evidence given in another committee by the chief of the Navy, who in fact had been a frigate commander and had been involved in several of the tow-backs. He confirmed my views on this issue.

Senator FURNER: Was that Admiral Griggs?

Mr Metcalfe: That is correct.

Senator FURNER: I take it that you still stand by the statement you made?

Mr Metcalfe: Apart from Admiral Griggs, I probably have as much experience in this area as anyone in Australia.

Senator FURNER: How would you enforce a turn-back policy if you do not have an agreement in place with Indonesia?

Mr Metcalfe: Again, that goes to an issue of whether the circumstances that existed 10 years ago can again exist. Those tow-backs essentially occurred on a basis of acquiescence. Indonesia has indicated at, I think, senior government officials level that it would not regard tow-backs as being an act of a friendly neighbour.

Senator FURNER: Mr Metcalfe, what do you think the consequences will be of the failure to implement offshore processing and the Malaysian agreement? Will we see more boat arrivals? Actually, we have. Will we see more drownings?

Mr Metcalfe: Senator Cash went through this in a lot of detail this morning. It is inevitable that we will continue to see boat arrivals, and we have factored that into the forward estimates for that very reason. Sadly, given the history of the last 10 years, we have seen hundreds of people drown, and there is no reason to believe that the people smugglers are not going to put people in that position. The danger of the voyage is inherently risky. The seas can be very deceptive. The seas near Java can appear calm, and further out into the Indian Ocean towards Christmas Island it can be very dangerous, as we saw with SIEV221 that crashed at Christmas Island. Sadly, I suspect that if we continue to see arrivals we will continue to see people drowning.

Senator FURNER: The UN High Commissioner for Refugees tonight on *The 7.30 Report* said:

We have been very clearly saying that we are ready to discuss with any government any policy of international cooperation in this area. But we don't think that pushbacks are a solution. We have clearly opposed pushbacks in the Italian case in the Mediterranean in the recent past before the Libyan crisis, and we think that that is clearly a violation in relation to the '51 Convention.

Does the department's view accord with the UNHCR's view on towbacks?

Mr Metcalfe: I saw what the high commissioner said, and certainly the Australian position has always been that, if people are intercepted and taken to some other country, there should be an expectation that they would not be refouled, that they would not be forcibly returned without an asylum determination process, that they would have access to that process, and that they would have access to resettlement if in fact they were found to be refugees. That was the basis of the towbacks that were successfully affected in 2001 and 2002, where essentially the Indonesian government acquiesced and the people concerned were able to be returned into the care of IOM and had access to UNHCR processing. Whether those conditions would exist in the future, I could not speculate about that. But it was in the knowledge of all of that that the government pursued the Malaysia arrangement as a more modern and effective means of achieving a similar outcome but in a safe manner and in accordance with international law, and UNHCR was very much involved in those discussions.

Senator CASH: I just have a follow-up question in relation to earlier this evening when we were discussing the estimate of people who would be on bridging visas, and we said it was 30 per cent—

Mr Metcalfe: Of the cost.

Senator CASH: Of the cost. What proportion have you assumed will get work and will not be drawing down on the Centrelink payment for 2011-12 and 2012-13?

Mr Metcalfe: I will have to get Mr Sheehan back.

Mr Sheehan: Sorry, Senator. I do not have that information. I will have to take that on notice.

Senator CASH: Thank you.

Mr Metcalfe: Senator, just to chance my arm slightly on that—and we will take that on notice—I think our assumption has been that we would not see high take-up rates of work, at least initially, because we are firstly dealing with some people who are frankly quite damaged and who may not be work ready, with language and other issues. Over time that may change. So I think the estimates have been quite conservative in terms of expecting that there would be only a low take-up of work. But we will take that on notice and I will correct what I have said if I am wrong.

[22:38]

CHAIR: That finishes outcome 4. We are going to spend the next less than 10 minutes dealing with outcome 5.

Senator CASH: I will be as quick as possible to see how many we can get through. What is the total cost to the budget of services provided to migrants under the Integrated Humanitarian Settlement Strategy?

Mr Fleming: The Integrated Humanitarian Settlement Strategy was replaced with the Humanitarian Settlement Strategy last year. And the 2011-12 appropriation for the program is currently \$73 million, which includes the complex case support.

Senator CASH: At the last estimates hearing, when Mr Fox was with us, I put some questions on notice. But at the estimates hearing questions were answered regarding the inspection of properties for HSS clients. In a written response which I was provided with you gave me the state-by-state breakdown. It was stated that you were roughly 100 inspections short of the self-imposed target of 540. Has the department reviewed the remaining properties?

Mr Fleming: I will have to take that on notice.

Senator CASH: Do you have any idea as to whether or not those final 100 properties were actually inspected?

Mr Fleming: I am not sure whether all of those were inspected because, of course, over time some of those properties might not have been used, still, as part of a program.

Senator CASH: In relation to the inspections, do you know what the result of the inspections showed?

Mr Allen: I have some information about this but I think, ultimately, we may have take most of it on notice. This follows on from the minister's announcement on 23 May that the

department would be reviewing accommodation. A total of 491 properties were identified for inspection. Thirty-five clients declined the visits and 22 clients, despite repeated attempts, were unable to be contacted. That resulted in a total of 434 visits being conducted. There were 225 for short-term accommodation and 209 for long-term accommodation.

The audit identified the need to better educate clients about the importance of ensuring that smoke alarms are functional, and the need to retain documents such as warranties on household goods and lease documents. While the majority of properties were suitable and had only minor issues to be rectified, a total of four properties were identified as being unsuitable. DIAC staff worked with the service providers to remedy those situations. I could go into detail about those individual properties.

Senator CASH: No, that is okay; we do not have the time. I will get you to provide the information on notice. You said that 22 properties, or the people in those properties, could not be identified. Why was that?

Mr Allen: I do not have an explanation for that here. I will take that on notice.

Senator CASH: Thank you. Were extra staff employed to complete the inspection process?

Mr Allen: Again, I would have to take that on notice. I have a cost for the inspection but not whether or not—

Senator CASH: What was the cost? Is this for the additional 100?

Mr Allen: No, this was the totality of the HSS audit.

Senator CASH: What was the total cost?

Mr Allen: The total cost was in the vicinity of \$140,000. I understand that that breaks down into approximately \$123,000 in employee salary costs and approximately \$14,000 for interpreter costs.

Senator CASH: Mr Fox indicated in October that it would be a technical breach by the service provider if people were not housed in long-term accommodation in the time frame required. Have any providers now been in technical breach as identified?

Mr Fleming: I will have to take that on notice. I am not aware of any. Usually what would happen if there was a problem with sourcing long-term accommodation is that we would approve a longer period in short-term accommodation while continuing to source the long-term accommodation. The other issue is that sometimes clients do not get placed in long-term accommodation because they move themselves somewhere else. So just because they are not placed in long-term accommodation does not necessarily mean that the provider was at fault.

Senator CASH: In relation to the acquisition of properties, do you work on the number of beds required or the numbers of properties required in terms of identifying how many properties you require? Could you house more than one family in a house?

Mr Fleming: It is unusual for more than one family to be in a house, but you might have a situation where, for example, a number of single adult males know each other, get along, and decide that they are going to live together on an ongoing basis.

Senator CASH: Very briefly, we canvassed earlier today the potential impact on people being placed in community detention. Have you identified any impact in the HSS process as a result of the new policy of placing asylum seekers in community detention?

Mr Fleming: We have not identified anything directly attributable to that.

Senator CASH: Is there anything indirectly attributable?

Mr Fleming: No, it is more that, in some locations, sourcing accommodation—particularly affordable accommodation—is very difficult, and—

Senator CASH: Are you competing with the community detention?

Mr Fleming: There are some areas where there is both community detention and final settlement into long-term accommodation, but we do not do that in areas where the accommodation market is particularly tight.

Senator CASH: If you and the Red Cross both sourced the same house, who would get priority—your clients or the community detention clients?

Mr Fleming: I am not aware that we have had a situation where there has been that direct conflict.

Senator CASH: Is there ever a priority given to one over the other?

Mr Fleming: We would certainly have no role in choosing that, because they are matters which are settled between landlords and the various providers.

CHAIR: We are going to put the rest of the questions on notice. Thank you, everyone. Mr Metcalfe, enjoy your leave and your study, and we look forward to a report back.

Senator Lundy: To add your comments at the beginning of today's estimates, Chair, I wish to add my appreciation on behalf of the government of Mr Metcalfe's work. I also would like to acknowledge his receipt of the honour of being an Officer of the Order of Australia. That is, I think, due recognition of an extraordinary career. I take this opportunity, knowing that he is still going to have a career after his leave, to place on record my thanks for his dedication and commitment to his role as secretary and other roles he has had in the Public Service.

CHAIR: Hear, hear!

Mr Metcalfe: Thank you, Senator Lundy, for those very kind words. Thank you, Chair and senators. I will definitely be back after a break, so it is not goodbye but au revoir.

CHAIR: Just make sure you are not watching us on the Internet somewhere in the world at estimates in May!

Mr Metcalfe: You can absolutely be assured of that. You can bet your house on that one!

Committee adjourned at 22:47