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SENATE

STANDING COMMITTEE ON EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION

Reference: Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Bill 2006

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SENATE STANDING COMMITTEE ON

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION

Tuesday, 30 January 2007

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

Participating members: Senators Allison, Bartlett, Bernardi, Boswell, Brandis, Bob Brown, Carr, Chapman, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fielding, Forshaw, Hogg, Humphries, Hutchins, Johnston, Joyce, Ludwig, Lundy, McLucas, Ian Macdonald, Mason, McGauran, Milne, Moore, Murray, Nash, Nettle, O'Brien, Patterson, Payne, Polley, Robert Ray, Sherry, Siewert, Stephens, Sterle, Trood, Watson, Webber, Wong and Wortley

Senators in attendance: Senators Barnett, Campbell, Fifield, Marshall and Troeth

Terms of reference for the inquiry:

To inquire into and report on: Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Bill 2006

WITNESSES

Committee met at 10.01 am

ACTING CHAIR (Senator Marshall)—I declare open this public hearing of the Senate Standing Committee on Employment, Workplace Relations and Education. Today the committee will deal with two bills. The committee will consider the provisions of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006. This bill amends the Disability Services Act 1986 to allow for a contestable vocational rehabilitation service market from 1 July 2007. The bill also makes a number of technical amendments to the Social Security Act 1991 and the Social Security (Administration) Act 1999, most importantly with regard to the pensioner education supplement and the raising of financial case management debts.

The committee will also consider the provisions of the Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006 which amends the Safety, Rehabilitation and Compensation Act 1988. The primary amendments aim to strengthen the connection between work and eligibility for workers compensation with regard to sickness and for worker journeys and activities during work breaks. The bill also creates new formulas for the calculation of benefits and makes a range of administrative changes.

On 7 December 2006, the provisions of both bills were referred by the Senate to this committee for inquiry. The committee is due to report on 20 February 2007.

Before the committee starts taking evidence, I advise all witnesses appearing before it that they are protected by parliamentary privilege with respect to their evidence. Any act by any person that operates to the disadvantage of a witness following their providing evidence will be treated as a breach of privilege. Witnesses may request that part or all of their evidence be heard in private. However, I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I welcome any observers to this public hearing.

[10.03 am]

ROMERIL, Ms Barbara Ann, Executive Director, Community Child Care Association of Victoria, and National Secretary, National Association of Community Based Children's Services

WANNAN, Ms Lynne, National Convenor, National Association of Community Based Children's Services

ACTING CHAIR—Welcome. Thank you for your submission. Do you wish to make any amendments or alterations to your submission?

Ms Wannan—No.

ACTING CHAIR—I now invite you to make an opening statement, after which committee members will ask you some questions.

Ms Wannan—We are coming in at a bit of a tangent from other responses that you might be getting. We come from the children's services sector and what we bring to this inquiry relates to the notion of the contestable market. We now have a 20-year history of contestable markets—privatisation—in the children's services sector in Australia, and we think our experience should be considered and looked at. There are many things that we want to caution the government on in any move towards a contestable market or privatisation in the social services or human services area.

From our experience, some of the goals of a contestable market that I guess the government had in mind when they started to privatise child care—and that was when they opened the fee subsidy to the private sector back in the early 1990s—were that they believed that it would increase competition and that it would thereby reduce price and increase the quality of provision. Our experience today is that none of that has happened and that, through time, we are actually getting less competition in the marketplace, real consolidation in a number of small players. In fact, one big multinational company now is the dominant provider of children's services in individual communities—where, in fact, the ACCC has now said that it ought to be closing some centres and not opening them, because of the loss of competition. It has driven the competitors out. Initially, one might have seen that as a result of lowering the cost of access to child care, but essentially now that is not the case; it is just sheer domination. Many of the not-for-profit or publicly provided children's services have given up, I guess.

We have seen no price reduction either. Essentially, the cost of child care, as I think everybody knows, has risen hugely. There are good things about that—it does relate to staff quality and some aspects like that. But nevertheless the commercial market simply prices its product against the non-commercial market, and the non-commercial market basically sets its price according to the cost of provision into the long term. So there has been no reduction in price.

Quality is probably the major issue that we would caution you about. We would say that quality has been reduced and that that is an inevitable outcome of the tension between the pursuit of profit and the delivery of a human service. I come out of a retail background myself, and I know that one of your prime goals is to increase your financial return, and you

have to do that by cutting your inputs. So we would say that there are major quality issues. While the government has really tried hard to put in place quality assurance processes, you would have to say that they are enormously costly for government. There are constant reviews about them—constant market failure, you might say—but the quality, we would argue, is quite questionable in the commercial sector.

We have evidence. The Australia Institute recently did a piece of research. They interviewed workers within the childcare sector and found that those who were working in the commercial sector were far less happy—in fact, very unlikely—to have their own children in the services within which they were working, because of their concerns about lack of quality. In Victoria, we have evidence of very serious breaches of the basic regulations, with children being injured—broken arms, dehydration. As much as we can tell, because the information about the commercial sector is not transparent—and that is another issue: how do you get the information? We do not really know, but from what we hear—if you look at the newspapers—there is a much greater incidence of harm for children in that commercial sector. We believe that that is because of the tension between trying to make money, trying to reduce the staffing you have, maybe having less qualified people. There is a shortage of qualified staff within our sector, so it is relatively easy to avoid meeting some of those requirements around the regulations to do with quality. Workforce is a big issue, which no doubt it would be for you too in this area. Have I left anything out, Barbara?

Ms Romeril—Just to add to Lynne's summary, it is becoming clear with 20 years experience of a contestable market in the children's services sector that the damage to quality that Lynne has referred to is impacting on public confidence in the childcare system. For many years, parents assumed that, if a childcare centre was allowed to operate, it must be meeting the minimum standards required by government, it must be okay and it must be safe for their child. But in the last few years it is becoming increasingly apparent that parents are aware that there is varying quality within the childcare sector and are deeply concerned about the impact on their own children and the children of their friends and family who are being cared for in a service that is not providing the quality that they would expect. We can foresee that, in any human services area where a contestable market is introduced, the tension between profit and the provision of service is going to result in a diminution of quality and ultimately damage the public's confidence in that service.

Senator MARSHALL—Senator Troeth, the chair of the committee, has now arrived. I am happy to kick off with questions, if you would like, Senator Troeth.

CHAIR—Yes, if you would like to do that, Deputy Chair, thank you.

Senator MARSHALL—Thank you for your submission and your presentation. The difficulties that you talked about really had their genesis—I think your submission argued and you argued here—in 1991 and the changes made then. What impact will this legislation have on those problems? Are you suggesting that this legislation will actually compound those problems?

Ms Wannan—It will not impact on our area. We are saying to you that our experience is something you need to consider when you are looking at making something within the human services delivery sector contestable because we think these problems are intrinsic to the very

nature of contestable markets. Often it does not matter; if you are in the retail sector, it is not really harming people. But when you are in a human services sector, reduced quality and cutting corners can be quite harmful to individuals.

Senator MARSHALL—On that basis, were there positives that came out of the introduction of contestability in 1991 in your industry?

Ms Wannan—The government would say, if I can speak on the government's behalf—

Senator MARSHALL—I regularly do!

Ms Wannan—You are probably a little more entitled to do so than I am.

Senator MARSHALL—No, probably less.

Ms Wannan—The government would say that there has been growth in the number of childcare places across Australia during that time. We would say that, if the government had continued to invest in the public sector, and having regard to the amount of money that now goes into the children's services sector, which is quite phenomenal, had that money gone into the private sector and had they strengthened that sector, they probably could have achieved the same level of growth but they would have had a sustainable and, we think, better-quality children's services system in the long term.

The other precarious situation in Australia now is that the bulk of our child care is owned by the commercial sector and they can close their doors and walk out any time that their shareholders are unhappy, and we would lose our children's services system. So we actually do not have a sustainable system any more, whereas if we treated the public system more like school education we would have much greater capacity to sustain it, to ensure quality and to avoid that tension between trying to make money and trying to deliver quality services.

Senator MARSHALL—In the childcare experience there were always community based childcare centres which I guess, in a sense, would set a benchmark that others would have to work by. You talked about cost recovery—that that was how the costs were determined elsewhere. In the welfare sector there will not be that benchmarking ability. Do you see that as a major detriment?

Ms Wannan—I think it is an issue. At least to start with, we were able to assist with the development of the national quality assurance system because we had some basic standards to move from. It was the not-for-profit sector that called for quality assurance and has always called for strong regulations that would protect children and make sure that you had qualified staff and that sort of thing. In the absence of that, there are not many drivers in the commercial sector for those aspects of service delivery. There is no particular reason why they would call for them.

Of course, as you are aware, we now have the Banks review of regulation. Certainly, we put to that review that we did not think that regulations were a real problem for the children's services sector because our regulations are essentially around protecting children. So we think that they are important and good and, given that our sector has to abide by the same regulations, we do not think they are a great burden. But now we are very aware, because we have the federal government's quality assurance system being reviewed, that any outcomes of that get tested against the impact on business. There is such tension all the time. Of course, if

you have good, strong regulations, it will cost the business. But they are meant to be there to protect children and to make sure the service works well. We would say that making money out of the business has to come second, but it does not; in a contestable market it comes first.

CHAIR—Wouldn't it be fair to say that, in the 10 or 15 years since childcare services have become contestable, there has been an explosion in demand for child care?

Ms Wannan—Yes, there has been growth in demand. We do not really know much about what demand was prior to that because we had, as I said, much more limited availability of services. But, yes, there has been a change in women's expectations, parents' expectations and a growing understanding that it is really important for young children to have access to quality programs. So, yes, there has been an explosion in demand.

CHAIR—What would be your view on whether or not the community sector would have been capable of satisfying that demand?

Ms Wannan—We think they would have, had we had the similar system to support the not-for-profit sector. It was not as costly as it is today to provide child care. So we would have continued to have a much stronger local government involvement. They used to be the sponsor in many cases. I think they would have continued with that. We have no trouble with maintaining parent management committees to this day. We have not lost any of the community based sector, anything to speak of particularly.

CHAIR—In spite of the outcry at the time over removing operational funding.

Ms Wannan—That is right, and services did have to rejig and the Commonwealth did provide some funds to have a look at your budget and help you get yourself used to having a reduced income, and fees went up to compensate for the loss of income—the operational subsidy that used to go there was basically transferred to parents paying that cost.

CHAIR—But by the same token, looking at the other side of it, would you agree that the contestability of the provision of services now has provided, given that explosion in demand, an injection of much needed capital into the childcare sector?

Ms Wannan—It has provided that, but in my own view—and possibly we will just have to disagree—I think that it could have been done the way it had been done before. In the earlier days what happened was that the Commonwealth provided some capital, usually state government or local government or some other public landowner provided land, and local government itself then would contribute with capital. I think there are many ways, particularly today, that we could have looked at much more innovative financing for the not-for-profit sector, so I think capital is not such a big issue. Anyway, it would have been a long-term investment, instead of now where we have a really quite fragile system where if the big player, ABC, decides it is much more profitable somewhere else and they go then we lose our services. So if we had public investment in public infrastructure, just like schools, I think we would have a much more sustainable system.

CHAIR—With regard to this inquiry, what about the aspect of choice for the person who will use those services?

Ms Wannan—We would say that in the children's services sector, choice is rapidly diminishing; that ABC is dominating many communities. Overall it only has about probably

26, 27 per cent of provision nationally, but if you go into some communities now and you might have three, four, five, six ABC centres and one very small local government centre or a church centre. So there really is not any choice, and while demand is so high there is even less choice—and so centres are in many localities with waiting lists. So we have not had increase in choice. You have to have availability and it has to be where you are. We certainly found early on that the commercial sector only went where they knew they could make money, charge higher fees. They did not go and still have not gone to many remote communities. They will go there if the government subsidises them to go there, but it is the community based sector which is still in remote communities and is more likely to be in communities where people are on low incomes. Having been in the commercial market myself as a retailer, I would not have located my business into a community where I did not think I could make the most money; I would go where I could make the most money.

Senator GEORGE CAMPBELL—Ms Wannan, you indicated that contestability has been an issue in the childcare area since 1991. Are there any experiences that you have learned over that period of the past 15 years or so that would lead you to suggest any safeguards that might be applied in this bill to counteract the negative impacts of the contestability model, given that this government is unlikely to go back on the contestability model?

Ms Wannan—I think you are left with regulations and quality assurance systems and they need to be really strong. There are real challenges around that. In Victoria at the moment we are reviewing the childcare regulations and we find that the commercial sector opposes any improvements. So you are trying to hang on to the basic regulations that you have. But you do need a really strong regulatory environment and you need one that encompasses both quality outcomes and maybe some of the very straightforward criteria you might have around qualifications or something, but then you have to monitor it.

We have just managed to get spot checks around the quality assurance introduced in the children's services sector. We fought for that for a very long time. We think that is fundamental, because you cannot really be assuring anyone that a service is operating well when they know the regulator is about to knock on the door next Thursday and you will fix yourself up and get right for spot checks. We think that whole package is really important, but it is quite costly for government. I have no idea actually what the quality assurance system in Australia costs, but I am sure it has cost millions and millions over the time we have had it. But you have to have it. I do not think you can rely on self-regulation; you cannot rely on the industry to do it and, as I said, you cannot rely on competition because I do not think that works.

Ms Romeril—Perhaps I could add to that. I think it is also important to support a really strong public and community component of that contestable marketplace because we certainly find in children's services that when the pressure is on to reduce standards through the state regulations or the national quality assurance system it is the community sector and the public sector that articulate the public good in maintaining high standards in the delivery of a service and the commercial sector universally decries that. We recently participated in a national debate about our quality assurance system in child care, and the commercial sector there were of one voice in, I am sure they would say, assertively critiquing the cost to them and their business of participating in the quality assurance system. Others experienced it as a rude and

bullying contribution to what should have been a sensible debate about how you ensure good quality services for children. So it is the proven role of the community and the public sector within children's services of holding the line on ensuring that good outcomes for users of the service are at the forefront, rather than profitability.

Ms Wannan—Another issue is consumer education about it. There has been quite a lot of money going into enabling parents to make a good choice. In our sector all the research that has ever been done around the world will show you that the parents are in fact the worst assessors of quality of the service they use. I know that sounds bad, but it is actually because you cannot afford to judge something where your children are as being poor. You would not be able to sleep with yourself if you left your children in something you thought was poor. So parents are not well equipped to make that decision. I think in this case, when you are talking about the whole rehab area, there will be people who are quite vulnerable and it will be difficult to get that kind of information out to them. You often do not even have the time to go and compare things, so you are not really going to be informed enough about the choices that you are making.

Senator GEORGE CAMPBELL—Can I just ask you—

Ms Wannan—You don't agree with me, do you? I can tell!

Senator GEORGE CAMPBELL—You have identified several issues that you think ought to be addressed in the bill. Can I ask you to take that question on notice and give us a response in writing in case there are any other areas that you think could be or should be addressed by this bill in terms of looking at safeguards to ensure that the system works properly?

Ms Wannan—Yes.

Senator FIFIELD—Ms Wannan, I was just wondering whether there are any areas of community service provision where you would be in favour of contestability.

Ms Wannan—Probably the answer is no. Most of the community service sector is a vulnerable population. Look at aged care: the history of aged care has been, publicly, worse than the children's services sector. I think it is very difficult to see how you can have for-profit because ultimately the prime goal is to return money to shareholders; even when government funds, you know that your government investment is only going to partially go to the service outcomes because it has to go to shareholders. I think that always it is hard to imagine how you can really have the highest quality outcomes in the human services sector when it matters so much. It is only because it matters so much. If I am in a shop selling stuff I am not really harming people, although we have pretty strong food regulations now too.

Senator FIFIELD—So your opposition to contestability is not just on the basis of your practical experience; it is also a philosophical and theoretical opposition.

Ms Wannan—It is certainly a theoretical one. I have been I could say pleased but probably disappointed to see that in the children's services sector, where when we began the opposition it was theoretical, what we have discovered is that the evidence really backs up that theory, that it is hard to see how you can achieve those good outcomes. So, yes, it is both—both theoretical and now the evidence is, unfortunately, rolling out.

Ms Romeril—We would like to leave with you some research papers that we brought along today that document, as Lynne mentioned earlier, the Australia Institute research where childcare workers were interviewed about indicators of quality in their service. The conclusion of that research was that the large commercial providers and in particular ABC demonstrated measurably lower quality to the point where workers in those services would not put their own children in those services. That is well-conducted scientific research reinforcing the reality of our worst fears. We would also like to leave with you a paper from Canada where some economists did some number crunching on indicators of quality there and came up with similar findings in terms of the impact of ownership on the quality of the service that children receive in children's services which demonstrated a 10 per cent improvement in quality where the owners were not-for-profit.

Senator FIFIELD—I would be interested to see that; thank you. Ms Wannan, you mentioned that you would like the childcare sector to be more like the schools sector.

Ms Wannan—Yes.

Senator FIFIELD—And you also mentioned that you thought that parents were the worst assessors of the quality of the service that their children are enjoying.

Ms Wannan—Yes.

Senator FIFIELD—Isn't the schools sector actually a sector where there is quite a bit of contestability already, that you do in effect have in the private system an arrangement where the money essentially follows the child, that on the basis of the enrolments at a particular private school the Commonwealth will give money to that school? In effect, you have a system there where money is following the child.

Ms Wannan—Children's services have always been contestable because you have always had more than one provider. The not-for-profit sector is a diverse sector, so essentially they were always competing. The schools sector is not-for-profit. Private schools in Australia to date are not-for-profit, so you can be confident as a parent that government investment somehow or other stays with the school and is invested in education. So I think the drivers are very different. Private schools are not there to return money to shareholders—quite a different driver from the for-profit children's services sector.

I would not say you have to have one size fitting all. In fact, everything we would ever say about children's services is that you need to have parent management committees. In fact, the quality indicators suggest that having parents involved in that will bring you the highest quality outcomes, because the service then will begin to reflect the values, aspirations and cultural differences of communities. So I am not saying that parents are not good contributors. But the research shows that, when they are asked to assess the quality of the service their children are in, they rate very differently to researchers who go in and in a very objective way rate it. I just think you have too much vested interest in saying it is bad, especially when you do not have choice. But we would always argue that we need a variety of providers. In the children's services sector there are lots of them—local government, co-ops, parent management committees, churches—but all of those people are delivering it and investing their money in the service outcomes and not transferring it to shareholders.

Senator FIFIELD—So is your concern more that for-profit companies could be providing these services rather than the issue of contestability as such? I am just trying to get to the nub of what your concern is.

Ms Wannan—Yes. We would say that in a contestable market—traditionally that is viewed like you were seeing it, as the choice between community and private; that is generally how it is seen—caution is really needed because once companies that are there to make money come into that contestable market it changes the whole system, it changes the purpose, it changes the drivers. That is where we think in the children's services sector we were all very ignorant all those years ago—although I am not saying that we have not had growth in provision. I just think if we had really looked at what it might cost us now in terms of making sure we have a quality, safe children's services system we might not have gone down this road.

Senator FIFIELD—I think you will probably find that the parents of Australia probably disagree quite strongly about their capacity to judge the services their students enjoy.

Ms Wannan—They will; I know they will.

Senator FIFIELD—You have mentioned—or it might have been your colleague who mentioned—that there is a greater incidence of harm to children in private childcare centres. I just wonder what the reference for that is compared to before there were private providers and—

Ms Wannan—It was me that said that.

Senator FIFIELD—what the basis of—

Ms Wannan—And I said that it is very difficult to have the evidence and all that we can go by is what is reported in the newspapers because we cannot actually get much evidence. It is very hard to get detail from, for example, the national quality assurance structure about individual providers. They will not give us that information, so you do not know. All we can go on are incidents that are reported in the media, and mostly they are for-profit providers.

Senator FIFIELD—So it is anecdotal.

Ms Wannan—That is not anecdotal but me saying—

Senator FIFIELD—It is citing a particular example.

Ms Wannan—They are real incidents. I am saying to you that I do not know whether it does happen as much in the other sector, but that is what we hear.

Senator FIFIELD—What would you suggest, from your experience, are things that can be done to improve the contestable arrangement to ensure better outcomes?

Ms Wannan—The regulatory environment, as we were saying before, needs strong regulations. You probably do need to have really good consumer information somehow, to really do some work on how you make sure that consumers can make good choices. Now in the children's services sector we are recognising the need to really focus on the workforce. We need improved access to education and training and in-service training. So it is really making sure that you have a good workforce, it is making sure that you have the regulatory environment that protects the consumers and probably yet unknown good consumer information strategies.

Senator BARNETT—I would like to ask for your views with respect to the provision of services in rural and regional parts of Australia and your views on the impact of the contestable market in those areas and the positives and negatives of that market in those areas; can you describe that?

Ms Wannan—In most human services areas it is very difficult to get sufficient demand in rural and remote areas for service providers to be there, basically. Unless they are subsidised by government in one way or another, you are very unlikely to get much. That is certainly the history in children's services, with the very small numbers of children. From our experience, it is about really looking for innovative models, ones that are quite different, and looking for government subsidy—and it is basically long-term government subsidy—to deliver. We have many innovative models in children's services, such as mobile little vans that drive into remote communities and put up fences, and the children come from remote areas and might only have one session of children's services a week, a fortnight or whatever. We have farms where you might have a worker who goes to one farm and other families' children come to that, or they might come into town on an irregular basis. So: innovation and government funding.

Senator BARNETT—Just your analysis of the introduction of the contestable market in the last 15 years or so in rural and regional areas—do you see there having been an increase? Do you accept that there has been an increase in funding, an increase in numbers and choice, or do you think there has been a decrease? What is your analysis?

Ms Wannan—I think there has probably been an increase in access to some form of children's service, but it has been government funded and it has been quite small, I guess; it has not met demand. There are still many organisations out there that want to be funded for some form of provision. But I think the government have been responsive to those communities and have really worked with some of those providers around what are the innovative models that you can do. It is an expensive thing to do and I think the government have actually expanded that provision, but it has not been expanded because of contestability. They could fund a private operator to go there but they could also fund, and tend to fund, community organisations that are already there, I guess.

Senator BARNETT—All right. We will have another look at the evidence in terms of the numbers et cetera during the inquiry. Finally, regarding health and the obesity epidemic among young kids—as you know, it is quite a big issue—have you seen any response from the childcare sector to help to address that epidemic?

Ms Wannan—There is. We would say we have a long way to go, but there is certainly a real interest in the kind of food that is provided within the services. There have been calls for some national frameworks around those areas—I will use the word 'curriculum'—so that we are able to have a whole service system that focuses in particular on aspects like outdoor play, provision of food, and support to families around some of those issues. So, yes, I think the sector is very aware that children start out small and get fatter.

Senator BARNETT—But there is a long way to go?

Ms Wannan—A long way to go.

Ms Romeril—And certainly some of the horrific anecdotes that we hear about poor practice in the large commercial providers are around the menu and the diet provided to young children. We are aware of one centre that was bought out by ABC and the parents became concerned about the reduction in the nutritional value of food. They brought in a dietician, who concluded that the children were not receiving adequate nutrition during the day, and the centre had to change the menu substantially. That was not a feature of the sector when it was primarily a public- and community-delivered service. It is since the introduction of the pursuit of commercial returns that the issue has really come to the fore.

Senator BARNETT—Do you think it is confined to the private sector—

Ms Wannan—No.

Senator BARNETT—or are those sorts of problems across the board?

Ms Romeril—I have never heard of a public or community childcare centre in which parents have a strong say in the program providing an inadequate menu for the children. Where the parents have a significant influence, that is not going to happen. Those difficulties arise when the decisions are being made from a distant head office on behalf of efficiencies that will generate financial return to shareholders.

CHAIR—Wouldn't you agree that in that same period of time people's idea of proper nutrition and proper provision has changed totally as well?

Ms Wannan—Absolutely and, we would say, the whole notion of the importance of outdoor play. Early childhood academics have always argued for a lot of physical activity outdoors, but I think parents are now much more aware that it is important to play and climb and jump and do those sorts of things. We have not had a national curriculum in the early childhood sector which really looks at what the components of your activities are. I am using the word 'curriculum' loosely, because we do not actually refer to it like that. We have a long way to go. The children's services system is just as much a part of it as the school system and really every other health prevention strategy.

Ms Romeril—I guess our observation is that the introduction of contestability has not assisted that kind of development of high-quality provision for children. If anything, it has diverted attention to trying to fight rearguard battles to retain the minimum standards that were there 15 years ago.

Senator FIFIELD—I can well remember that when I was in child care, which was not a private childcare provider, 35-odd years ago baked beans on toast was the lunch that we had almost every day. I do not know about the nutritional value of that.

CHAIR—They are a high source of protein.

Ms Wannan—Baked beans are actually not bad and neither is toast.

Senator FIFIELD—Thank you. I am just checking I was not being neglected back then!

Senator BARNETT—He is a picture of health today.

Ms Wannan—I think you were all right.

Senator GEORGE CAMPBELL—Was that at Barker College?

Senator FIFIELD—I think it was in Adelaide actually.

CHAIR—Senator Marshall has one more question.

Senator MARSHALL—This is probably a little outside the legislation but, in terms of some of the evidence you have given today and some of the questions, I am wondering what is the reporting regime for harm or incidents in childcare facilities and whether that is mandatory or voluntary.

Ms Wannan—It is mandatory but—

Senator MARSHALL—It is voluntarily mandatory.

Ms Wannan—And that is a dilemma for anything. You cannot regulate to have somebody, a spy, there all the time. I can give you one example of a child in Melbourne who had a broken arm. This was an 18-month-old with a broken arm. Nobody reported an incident. The mother picked the child up—the child was screaming, which you would expect really—and asked what had happened. None of the staff knew of anything that had happened. That mother took the child to hospital and it had a broken arm. Either somebody was not watching or, well, who knows. But you do have to report; it is mandatory.

Senator MARSHALL—To where?

Ms Wannan—To the state government. When it is about an injury, it is definitely the state government. It is the licensing body. All of that is being looked at at the moment under the COAG reform, but at the moment state government does the licensing.

Senator MARSHALL—Senator Fifield talked about making the comparison—and it may be a useful purpose to make that, but that is not the purpose of my question. The information should be available somewhere.

Ms Wannan—It should be. It should be there and the quality assurance information. Quality assurance is actually monitored. There are people who go into services and the government employs them to go into services and check the quality breaches and adherence. That information is there nationally because it is recorded. It is very hard to get access to it.

Senator MARSHALL—Why is it?

Ms Wannan—Certainly at a national level with the quality assurance we are told that it is not about identifying individual services or types, it is about the system as a whole and improving the system. It is confidentiality, I guess. I do not really know.

Ms Romeril—The authorities tend to argue that their focus is on trying to get all services to improve, whatever standard they are operating at—whether they are of concern or are already doing well—and if they were to publicly name and shame the services that are doing really badly, then they may lose their relationship with those services and not be able to help them improve. We are not convinced by that argument. We think we as observers of the system and parents as users of the system would be a lot more confident if we knew that if a service was doing something unacceptable that information would be made public.

But it is a tension, I think particularly with the growing dominance of one provider and the fear that Lynne articulated earlier, that if ABC were to decide that child care was too hard, was overly regulated and they could make more money out of a different form of service

provision and they pulled out tomorrow then our entire childcare system would be in crisis. So I do suspect that the decision makers who are making that judgement of the correct balance between negative consequences for poor service and positive encouragement of improvement have that in the back of their minds, that if they get too tough we could have a crisis in the system. I think that is a genuine direct cost of introducing contestability.

Senator MARSHALL—It seems to defeat the purpose a little bit. If we are introducing contestability and therefore choice or more choice, surely people ought to be able to choose on the basis of quality and service delivery. But if that information is actually hidden—and again it goes to some of the questioning from Senator Fifield—and you say that parents are not always in the best position to make that judgement for a number of reasons—and I think I agree with you—then clearly that is even more so if they do not have access to the information. If you get told about the centre what the centre tells you and you are only there to drop your children off and to pick your children up—

Ms Wannan—Fifteen minutes sometimes.

Senator MARSHALL—how do you know whether there have been 15 broken arms that day through incompetence?

Ms Wannan—Yes.

CHAIR—But you would assume that the services which are at fault are called to account by the responsible authorities.

Ms Romeril—Eventually they are.

Ms Wannan—There has to be an investigation of it, and you might recall that ABC took the state government to court, saying that they have no right to investigate after a breach has occurred. If they find a breach when they go in on a visit they can report that, but once the breach has occurred they cannot investigate backwards from that. So at the moment the state government is waiting for the outcome of that.

CHAIR—Again—I am not interrupting you, Senator Marshall—you would think that parents still are the best judges in many ways of their child's safety, surely at such a basic level, and if a centre were not able to provide that level of safety you would think the parents would vote with their feet, wouldn't they?

Ms Wannan—You would, and parents at the moment going into any childcare centre would know that it would not be operating, it would not be open, unless it met the state licensing requirements. So they could assume that that is the expectation. But whether or not, minute by minute, those regulations are being met, a parent, no-one, would know. Say some staff go home, or they do not have the right numbers, or they are not qualified: parents may not ask those questions.

CHAIR—And you are saying that all community resourced centres are squeaky clean in this regard.

Ms Wannan—I would not say that, and I know that everybody says that to you and then they bring out all these examples or something. What I am saying is that the drivers are very different. Why you operate a service as a not-for-profit parent management committee or whatever is quite different from operating a service when you are trying to make a return for

your shareholders. That is where I say theoretically I think there is a problem and that it matters in a human services sector far more than it does in the rest of the contestable market world. That is what I would say. It is just a fundamental question about purpose.

CHAIR—As there are no further questions, thank you very much for your appearance here today.

[10.46 am]

DIAMOND, Ms Maryanne, Chief Executive Officer, Australian Federation of Disability Organisations

O'NEILL, Ms Collette, National Policy Officer, Australian Federation of Disability Organisations

CHAIR—Would you like to make a brief opening statement?

Ms Diamond—We do not have an opening statement other than some additional material that we would like to provide to you—three documents. Collette might tell you what they are.

Ms O'Neill—We have given them to the secretariat, so maybe eventually you will get them and we can talk through it then.

CHAIR—So would you like us to move to questions?

Ms Diamond—Yes, please.

CHAIR—One of the aspects you commented on was the importance of clients having input and right of review of the content of their rehabilitation program. Would you like to explain to us why you think that is important?

Ms Diamond—People with disabilities, just like everybody else, need to have input into a program and be a participant in a program that is designed or developed for them. We are all human—sometimes mistakes are made and the wrong program or aspects of a program may not work out or be the best—and we believe that, as we do have in other programs and currently do under the CRS model, people should have the right of review. What we want to emphasise is that, in a new system, that be one of the fundamental things that go forward into the design of a new system.

Ms O'Neill—Particularly because under the new rules of Welfare to Work the group of people who might receive Newstart incapacitated payment can be required to take part in a program and, in that circumstance, if the program is not meeting their needs the fact is that they will have to take part in it, but they should have some say in whether or not what they are being asked to do is appropriate. As Maryanne said, it is just that people make mistakes. You are getting assessed by someone and they may have a different perspective on your abilities, or their judgement may have been right at the time but after a while it becomes apparent that you need to change. At the moment it is just about making sure that there is a process in place for people to ensure that they can get a review if they need one.

CHAIR—So at present that ability operates; they can get a review, if they want it?

Ms O'Neill—Yes.

CHAIR—Also, you stated that private contracts for work capacity resulted in some service venues being inaccessible to those with disabilities. Could you give us some instances of that?

Ms Diamond—When the tender was first being developed for the job capacity assessments, we raised the issue of accessible venues. I think we can learn from experience that it is easier to build things in at the outset than to add them on later. If you are looking for

examples, there were a couple of cases I know of in Perth, I think it was, where someone was carried into a building from a car park because there was not a ramp. Accessibility is more than a ramp. I think we often make the mistake of assuming that an accessible building is one that has a ramp. There are a whole lot of other things. It can be on the third floor of a building and there is no lift and things like that. One of the documents we have here is a checklist that was developed by the Human Rights and Equal Opportunity Commission, after some of these issues became apparent, about what should be taken into account when determining a site. I guess what we are trying to say is that if this is built in at the outset it is certainly a lot easier than to do add-ons, as you can imagine.

CHAIR—Was the building in Perth the only one that you know about that did not have disability access?

Ms O'Neill—It is not. I could give you other examples, but I do not have exact—

CHAIR—Yes. Could you supply those to the committee?

Ms O'Neill—Yes, that is fine.

CHAIR—Was anything done about that when the complaint was made or that was noticed?

Ms O'Neill—That is one of the things we are saying. Concerns about the accessibility of buildings, as Maryanne is saying, are much broader than that. It is whether you are located near public transport that is accessible and whether people can get to your building. DHS worked with the human rights commission to produce a checklist that they have now given to all their providers and they are doing audits against this as well, which is what we had suggested happen. That is fantastic, but it had to happen post the event. If you have got a document, it makes sense to put it as part of your tender documents to make it clear up-front what you will be asking of people. The checklist does cover things like signage, toilets and that sort of thing.

Senator MARSHALL—You say that you are strongly opposed to debts being raised against people who are receiving financial case management but whom Centrelink subsequently decides were not eligible to receive this support. It is a fairly easy argument to run that, if you are in receipt of a benefit to which you are not entitled and have been paid, it should be refunded. I would ask you to expand a little bit more on why it should not be recovered and what category of people this is likely to impact upon.

Ms O'Neill—I do not know how much you know about the way that financial case management works under the rules. It is not actually a legislative program. Whether you are eligible for financial case management is something that Centrelink decides on a discretionary basis. The guidelines are not particularly transparent. For instance, a person with a disability may be referred to case management if they are deemed to be particularly vulnerable, and that includes people who need medication. Who needs medication? At what point is medication essential and at what point is it not? It is a discretionary decision by Centrelink.

A person who is on a non-payment period and is being considered for financial case management has no say in whether or not they get it. They apply for it and Centrelink grants it or does not grant it, but they cannot appeal. It is unlike any other payment in the social

security system. I cannot appeal Centrelink deciding that I am not exceptionally vulnerable. Despite the fact that I might have an argument that my medication is essential, I have no avenue for appealing that. If I get it, it is literally at the discretion of the Centrelink officer making that decision and I can do nothing about it. If I have been granted it and subsequently Centrelink decides that I am not exceptionally vulnerable, it seems a little unfair, given that I cannot appeal that decision either, that I should have to pay back money that was given to me in a system that I have no input into, with no transparency and no review.

This is why we support the ACOSS recommendation. If I have been paid money incorrectly because, in retrospect, I end up getting my payment back through appeal or if I was earning money that I had not declared, I should not get paid twice. But in a system where I am being granted charity, in effect, and I have no say over whether or not I can appeal it, it seems that there is a lack of process. This is why we suggest that, if people are going to be able to have debts raised against them, they should have the right to appeal whether or not they are granted financial case management in the first place.

Senator MARSHALL—What impact on people does the raising of a debt in these circumstances have?

Ms O'Neill—The people who tend to get breached and suffer non-payment periods tend to be some of the most vulnerable in our community. People always think the people getting breached are people who are tricky and working the system but if you are good at working the system, you do not get caught and you do not get breached. From the figures collected, people who get breached are Indigenous people, people with undiagnosed mental illness or brain injury and young people who do not understand what is happening. These are the groups which consistently get breached and these are the groups in the reports which are made up of those people who just cannot meet the requirements, particularly people with mental illness or brain injury. The requirements are to fill in forms, keep appointments and bring in your diary. If you have an acquired brain injury, remembering an appointment can be impossible but you are unlikely, with the way that our system works, to get picked up and put onto a better payment. If I am in that situation, there will be an eight-week non-payment period, so for eight weeks I will have no money. If, on top of that, I am expected to repay a debt that will then take more money, so when I was about to get my money back, I will then have to repay a portion every week. That leaves people extremely vulnerable.

Senator MARSHALL—Are there any amendments to the bill in this area that would make it more acceptable to you?

Ms Diamond—It would be the right to appeal. That would certainly make a big difference.

Senator MARSHALL—Do you think the right to appeal would make the decision-making process in the first place more transparent and the process more rigorous? I think you have complained about what you say is really the discretionary nature of an individual officer's decision and there is nothing that you feel you can benchmark that against to say whether the test is met or not. How would you see that being improved?

Ms O'Neill—By giving it a legislative basis and putting the payment into the Social Security Act. Welfare Rights, on the agenda after us, have probably got better views on how you could legislatively do it. You could have discussions and make it clear in the decisions

that are made as to what does constitute 'extremely vulnerable', and when people are eligible for this payment. It would be clearer to everyone. It would make it easier for the community and organisations that assist homeless people and people with a disability. It would also mean that people who are not getting granted payment would become eligible. There might be people out there who might meet the criteria but, because you cannot appeal, there is nothing they can do if they are extremely vulnerable but Centrelink decides they are not.

It would also force transparency. I know that Centrelink and DEWR are having lots of discussions to work out who meets these criteria. There are lots of grey areas that have been worked out. I think that should be made public because it is really important for the community to know what those grey areas are and, when there are grey areas, how the decisions have been made and on what side people came down. For example, there are the questions: who needs medication and what is an essential medication? They are important questions that the community should have input into rather than something that just happens between Centrelink and DEWR with no input from anyone else.

Senator MARSHALL—Thank you.

Senator BARNETT—On page 2 of your submission you refer to the recommendations with respect to improving equitable access. You responded to Senator Troeth in that regard. Can you just give us a little more clarity in terms of your recommended comprehensive, accessible guidelines? Just to clarify, are they all set out in the material that you are presenting to our committee today?

Ms O'Neill—Yes.

Senator BARNETT—Do you believe they are comprehensive and adequate to meet your objective of ensuring accessibility?

Ms O'Neill—I think they are an excellent start.

Senator BARNETT—You said in your submission that Australians living in rural and remote Australia should have equitable access to services. Will those guidelines cover people in those areas?

Ms O'Neill—Once a service had a contract, it would cover how they provided their service within the area they serve, but they are for individual sites rather than relating to a policy about where services should be located.

Senator BARNETT—We will have a look at that. I am looking forward to reviewing that material. Just going back to the review provisions that you recommended, on page 1 of your submission you are saying that it is not clear how a job seeker or employer can appeal a decision. Then you referred to a complaints system. Are you thinking of something? Do you have anything in mind in terms of a particular complaints system that would be appropriate? Are you thinking of the aged care sector system or any particular complaints system? Can you flesh that out a little bit for us or is that just a general overview statement that you would like to leave with us?

Ms Diamond—With the CRS we currently have the tender now. There is a mechanism there for complaints or for people to contest the program or decisions. So I guess what we are highlighting is that we are moving beyond CRS providing this service. Such mechanisms

should be built-in. I think they already exist. It is to ensure that we do not lose them as we move out to new and different providers.

Senator BARNETT—Under the current system I think there is an internal review complaints system and there is the Administrative Appeals Tribunal, as you have noted. So you are basically saying, 'Let's keep the internal review complaints system in terms of the private providers that might be providing these services.' Is that a fair assessment? Is that the way you see it?

Ms O'Neill—Maybe we should get back to you on this. I am thinking that one of the difficulties with the current income support system is that if I negotiate an activity agreement with a service provider and I do not agree with what is in that activity agreement, I do not really have any right of review of it. I can only start appealing on whether or not I can meet it. I cannot negotiate whether or not what is in it is okay, or I can negotiate to a very limited extent only. It is more that I then have to start appealing that it was unreasonable to have asked me to do that if it then starts affecting my payment and I could not do it. It would be preferable to have a system whereby, at the outset, whether it is a rehabilitation service or any other employment service provider, I would be able to have those agreements in the first place reviewed rather than having to wait until I could not do it and then appeal that I have been punished for not doing it. That is currently how it works. But I could get something to you on that.

Senator BARNETT—If you would like to take it on notice, we would be interested in any further views that you might have.

Senator GEORGE CAMPBELL—Ms Diamond, can you outline for us in your experience how necessary it is for people with disabilities to undertake further study in order to increase their marketability in the labour market?

Ms Diamond—I think that, as with the community generally, education is a pathway to employment for people with disabilities. As we all know, finding and retaining employment is more difficult due to a whole lot of barriers. Collette has just reminded me that one of our other documents that we have provided for you is a graph that looks at the different groups—those with higher education, those with I think TAFE education and those without even high school education, for both the general population and people with disabilities, so that you can see where the educational levels of people with disabilities fall against the general population. You might find that useful.

ACOSS's submission reminded me that, in your previous work, you thought of education as being an incentive—and we should make sure it is an incentive for people with disabilities, not a disincentive. I guess our concern is that study is a pathway for people; it provides opportunity. For people with disabilities there are huge barriers and huge costs even for participating in education. We support every opportunity to support people into work, and education is a key thing. Collette might like to add to that.

Ms O'Neill—This graph shows it is a problem for the general population that our skills do not match up, but it is particularly a problem for people with a disability, so anything that will act against that, like cutting the pensioner education supplement for people with a disability, just does not seem sensible when you could provide people with an incentive. The

Productivity Commission last year did a review of whether or not casual work was really a stepping stone into more permanent work for people. It found that people with a disability were particularly disadvantaged—that casual work did not, in the main, lead to more permanent stable work for people with a disability. It is particularly concerning that so many of the people with a disability—57 per cent—do not have any postsecondary qualifications. They are very disadvantaged in the labour market. As a person with a disability you have to be more competitive because of the discrimination you face, so from that perspective we should be encouraging education. Education clearly allows people to have more stable employment. That is essential for everyone, particularly people who have disabilities—you might have a chronic health condition and you need stability where you can get it.

Senator GEORGE CAMPBELL—Has your organisation done any analysis of the likely impact of the PES restrictions on income support recipients who are trying to improve their marketability in the labour market?

Ms O'Neill—Do you mean the impact of the proposed change?

Senator GEORGE CAMPBELL—Yes.

Ms O'Neill—It is difficult to know, because it is a change that will affect people in the transitional group and there is not a lot of data about that group and what is happening to them. I cannot tell you how many people—DEWR might be able to tell you—in the transitional group are studying. As you would know, Austudy is a much lower payment than Newstart, so it is difficult to afford to stay in study. It is mostly about the financial disincentive. There is a substantial drop in payment. With the costs that you have as a person with a disability, being able to stay studying would be quite difficult. The pensioner education supplement was introduced because it costs people with a disability more to study; they have higher costs. If you are not on the pension you still have those costs.

Senator GEORGE CAMPBELL—Is what is proposed here consistent with the Howard government's previous commitment?

Ms O'Neill—The commitment was that people would retain their pensioner education supplement. There is a total of about 58,000 people in the transitional group. So we are talking about a small number of people. Why do it when it is a small group of people that has an end date anyway? The group cannot get any bigger; it can only get smaller as people move on to different things. So it would seem unnecessary.

Senator GEORGE CAMPBELL—I understand that it is $31?

Ms O'Neill—That is correct.

Senator GEORGE CAMPBELL—So what is the total cost for the 58,000?

Ms Diamond—Not all of the 58,000 people would be studying.

Ms O'Neill—That is the potential group from which we draw.

Senator GEORGE CAMPBELL—I see. Do you know what the numbers are likely to be?

Ms Diamond—As we just suggested, maybe DEWR would have that information.

Senator FIFIELD—I have a quick question on the PES. What period is that $31 for?

Ms O'Neill—It is $31 a week for the duration of the course.

CHAIR—Thank you very much for appearing before us today.

Proceedings suspended from 11.10 am to 11.23 am

FORBES, Ms Linda, Case Work Coordinator, Welfare Rights Centre, Sydney

RAPER, Mr Michael, President, National Welfare Rights Network

Evidence was taken via teleconference—

CHAIR—I welcome our next witnesses coming in via teleconference from the National Welfare Rights Network in Sydney. Thank you for your submission. Do you wish to make any amendments or alterations to it?

Mr Raper—No, thank you.

CHAIR—Would you like to make an opening statement?

Mr Raper—Yes. I appreciate the opportunity to put in a submission at short notice and also to speak to you by phone. It is very helpful and we really appreciate that. To put this into context, we are talking here about a provision that sits, or should sit, within the social security system in Australia—a comprehensive system of income support that is covered by various bits of legislation totalling $63 billion of outlays, transfers, from revenue, from tax, across to the comprehensive income support system in the country. That is a system of payments, as you know, through Centrelink, that goes to some 6.4 million customers. There are 9.98 million, almost 10 million, individual entitlements through that system under that legislation every year, and that is administered by 25,000 Centrelink staff.

I think everybody in the Senate and certainly in this committee would agree with us that it is essential that the provisions relating to those payments—for instance, age pension, family tax benefit provisions, on which so many people rely—be based on clear legal entitlements and rights set out in the legislation and on obligations and responsibilities equally set out clearly in the legislation. To do that then, particularly in the case of, say, age pension and family tax benefit, on which so many rely, expresses the will of the parliament. That legislation expresses their will. It is scrutinised by and passed and endorsed by parliament. To us, that is a fundamental principle on which the social security or income protection system in this country is based. I doubt that any senator would disagree, especially given the amount of time that the Senate has put into scrutinising legislation and into modifying that legislation over the years.

It is in that context that we come to this financial case management system. So far, it applies to 288 people, but it breaks the fundamental principle, the fundamental requirement that we have outlined, on which our whole social security system in every other respect is based—that is, that the financial case management system is not established or regulated under legislation. It rather comes under the executive power. It is very difficult for us, who specialise in this area of law and in the administration of it, to work out and to get any detail from DEWR, from Centrelink, about how that system is regulated, about what the entitlements are—there are none, because they are not set out in law. Who determines and how is it determined what payments should be made to whom under what conditions? It is shrouded in secrecy. It is difficult for us to find out—and I am sure the Senate would have to agree that we are not able to know, because it is not set out in legislation.

This financial case management system is unique in another respect as well, in that payments are not made to individuals. It is not an individual entitlement under law. Like all of the rest of the social security payments, these payments are not made to individuals who qualify under the system or under legislation but rather to third parties directly on behalf of somebody else. They are paid to the grocer or to the landlord or to the chemist but they are not paid directly to the person who might have been thought to have some entitlement under legislation, because, as we have said, there is no legislative entitlement and there are no rights, entitlements, responsibilities or obligations set out in legislation to cover this financial case management system.

There is a third aspect in which this financial case management system stands out and breaches the fundamental principles on which the rest of the system is based—that is, there are no appeal rights. Because there is no legislation entitlement and there are no obligations and responsibilities, there are no appeal rights, and that to us is a fundamental flaw as well.

Fourthly, there are no obligations. Because there is no legislative base, there are no notices sent to a person who is getting money under the financial case management system during their eight-week period. So there are no obligations because there are no notices that can be sent out under legislation. There can be no requirements, no obligations, imposed on people who are receiving this money.

We ask ourselves: why is this? It is not best practice, certainly, that has brought about this system. In fact, it is exceptional—288 out of some 6.4 million customers in all. We are talking about 288 people receiving these payments under a system that is unclear, is not legislated and certainly is not best practice. And it is certainly not essential that it be this way.

This is the first time that this system has come before the Senate. It has not been in legislation to come before you before, so it is the first chance that the Senate has had to look at this and to perhaps remedy this. It has come about rather because it is a sort of last-minute or, unfortunately, slapdash fix to a problem that emerged when the rest of the Welfare to Work legislation went through. It was observed that there were a number of very vulnerable people, the most vulnerable in the system, those with dependent children or with children with disabilities, and so, in order to avoid having those single mothers with dependent children exposed to the full blast of this first-strike, eight-week, no-payment penalty under the Welfare to Work legislation—and it is the first time that we have had a first-strike, eight-week, no-payment penalty—this quick fix was introduced. But the Senate of course had nothing to do with it because it is not legislative.

Because this is the first time that it has come before the Senate, we would argue that this quick fix should not now be compounded by another sort of slapdash or quick fix. We would say—and we have put our arguments in the submission to you—that this is your first chance to remedy it. We would urge you not to carry this amendment that would put into legislation a power to recover moneys that under some unclear, unspecified basis should not have been paid to somebody—but we cannot work out what that basis is because there is no legislation. You are being asked to put in legislation to recover moneys the basis of which is not in the legislation itself. That, to us, is another quick fix that the Senate ought to resist.

It would be far better to send this back to the government, to the executive, to the department, and to say: 'How about we fix this properly? Give us legislation that determines the basis on which these payments should be paid, and then we can determine which payments should not be paid. Then we would be able to determine which payments are debts, and then we would have a basis to determine whether or not the debts should be recovered by fortnightly deductions from somebody's payments.' But, at the moment, the money that is paid is rather more akin to charitable assistance, albeit that it is paid directly by Centrelink. It is really out of the government's charity arm, not out of their income support or social security arm, powers or capacities. So, as it is more akin to charitable assistance, it should be treated as such, and you do not claim it back in any way or try to bring in legislation to claim it back if, six weeks after somebody has had their rent paid directly to the landlord, it is felt by somebody in Centrelink that that payment—the basis of which is unclear—perhaps should not have been made.

In that case, we would say that if these people are so vulnerable—and, remember, there are 288 so far out of 4,600 or 4,700 who have received this eight-week, no-payment penalty, so it is the very, very vulnerable we are talking about here—then it would be better for the government to go another route if they are not prepared to put in legislation to cover these payments. Another alternative route would be to say: 'We're talking about the most vulnerable of the most vulnerable. If it is judged that they should not be deprived of the payments of their rent or their medical expenses then we should suspend this eight-week penalty and leave them on the social security system, in which case they would have obligations set out in legislation. They would have to declare their income if they earned during that period, which they are not required to do under the way the non-legislative provisions act at the moment. Centrelink would be able to raise a debt, and the legislative and legal basis would be clear.' So that is our preference: do not pass this piece of legislation; deal with it in one of two other ways, both of which I have just mentioned.

I will go now to the pensioner education supplement provisions and take your attention to our submission, in which we quote the original explanatory memorandum. The second paragraph of that extract from the explanatory memorandum reads:

> This schedule gives effect to this by providing that people who receive New Start or Youth Allowance and who have been undertaking a course whilst receiving DSP will continue to receive the same study assistance—being the pensioner education supplement—until they complete their course.

This proposal in the legislation before you goes back on that undertaking. It removes, it qualifies, it reduces that undertaking so that a person who is in the process of undertaking study and who is receiving pensioner education supplement could in fact have that pensioner education supplement withdrawn. It could be, for instance, a week or two after somebody commences a course. It is possible that somebody in this transition group on DSP has their first review sometime, say about now, and they are entitled to keep their disability support pension because they are not deemed to have a partial capacity. Then they take up a course, say next month, they gain pensioner education supplement and then they are reviewed in two or three months time again. That would be unlikely, but it is possible. And it would be possible that, having just commenced a course, knowing that the current legislation saves

them and gives them an entitlement to pensioner education supplement, that could now be withdrawn if this legislation goes through.

Worse still would be the situation facing somebody who is two and a half years into a three-year course. The only way out of DSP and into work for so many people with a disability on disability support pension is through education, through training, because they have to compensate for that disability. A person who was two and a half years into a three-year course, or one and a half years into a two-year course, if this provision were to go through, could have that pensioner education supplement withdrawn. That would be a loss of $31 a week on top of the loss of $45 a week if they were reviewed off DSP and placed onto newstart allowance.

It seems that this would be a triumph of Centrelink convenience over the fairness of the provision of pensioner education supplement to somebody. It may be in Centrelink's interests not to have to retain lists of grandfathered beneficiaries but it would not be the best interests of that person. It would probably also not be in the long-term financial interests of the taxpayers of this country to prevent a person from completing their course by withdrawing the pensioner education supplement from them, which is likely.

So we urge the Senate not to pass this provision either. It is unfair. It goes back on an undertaking of the government. It is essentially almost retrospective in that sense. It would have little impact on reducing budget outlays but it would have a big impact on the individual. It would have a minor impact on the convenience of Centrelink, which should not be put in front of the needs of the person on a DSP trying to get out of it by studying. That is our opening submission, thank you very much.

CHAIR—Thank you very much, Michael. There are a couple of issues I would like to ask you about. I will deal firstly with the last one that you raised: the pensioner education supplement. It is my understanding that there will be transition arrangements for people who are on the pensioner education supplement, for principal carer parents who move from a parenting payment single and for people with disabilities who move from the DSP to newstart or youth allowance such that they may be able to continue to receive the PES for the remainder of their course. That applies to parents or people with disabilities who were study and receiving PES immediately prior to move into the other payments. Do you understand it to work in that manner?

Ms Forbes—Our understanding is that that transitional group applied to the previous legislation introduced, which was the explanatory memorandum that Michael was reading from previously, and that this piece of legislation would limit that and provide for an additional transitional group.

CHAIR—That is something that we can clarify with the department, but the words in the departmental submissions are that:

> The legislative amendments contained in the bill clarify exactly how these arrangements work and to whom they apply—

that is, to the groups that I just read out—and the reason for this is that, in the department's words:

The existing legislation is not sufficiently clear about the circumstances under which these arrangements are meant to apply.

We will ask them about that and you will be able to read their answer in the transcript. Just moving back to the other item about which you were concerned, do I take it that you are open, then, to a different arrangement for recovering moneys paid in error under the financial case management?

Mr Raper—Yes, we strongly advocate that the entire social security income support system in this country, being as important as it is, should be determined by parliament and the rights, entitlements, obligations and responsibilities should be set out clearly in legislation. It is our point that this financial case management system is deficient in that regard and it should be set on a sound legislative basis like all other payments. That can be done in one of two ways—legislation can be drawn up to determine who is entitled, under what circumstances, how much they get and under what circumstances, or, given that these are the most vulnerable of the vulnerable, if it is deemed that they need to have payments continuing notwithstanding the imposition of an eight-week no-payment penalty, another way of doing it would be to simply suspend or withdraw the penalty in its eight-week no-payment form and allow persons to stay on the payment. Then you get all of the benefits of the law and they would clearly understand their obligations—their obligation to declare income, for instance, would remain on foot and their rights to appeal would remain on foot. That is a clearer and simpler way of doing it. In that case, that would of course mean that any overpayment would be a debt and the means for determining that and recovering it would be as per the act. It is not that to which we object. It is the basis of it, the lack of clarity and the lack of a legislative base for this system, which means that it is virtually impossible to correctly determine what is an overpayment—I do not know how the Senate could do that—and what is unfairly or unjustly paid, because there is no basis to determine that.

Ms Forbes—The people who are getting this assistance—because they are either exceptionally vulnerable themselves or have vulnerable dependants—are having bills paid and often the bills being paid may be bills for past periods, such as arrears of rent to prevent the person from being evicted or medical expenses that have mounted up that actually have to be paid. We need to remember the nature of these payments in that they are received by people who are being case managed as charitable assistance. This is not perceived as being a payment that they are entitled to and that they are receiving. So it is very difficult for us to understand, let alone for the people affected to appreciate, that they are being given an entitlement for period and that later on, if they win an appeal and get back pay, they can have that whole thing snaffled by having a deduction from their back pay by way of the value of the charitable assistance they were given over the period. It would be very confusing for those people.

Something we have not mentioned—and which we did not set out in the submission because it is taken as a given really—is that we are talking about not only people with vulnerable dependants, either children or elderly people dependent on the person facing the eight-week nonpayment, but the other group without children, and the term is ‘exceptionally vulnerable’. You are only ‘exceptionally vulnerable’ if you have a recognised disability, a medical condition, a physical or a mental impairment, you require medication to manage that

condition or impairment and you do not have sufficient funds available to purchase essential medication. That explains why the numbers are so low.

We also need to remember that a proportion of these people are going to be mentally ill or have other disabilities that have meant that they have come to the point of incurring the penalty because they are not managing their finances and not coping with their obligations under the social security system. When many of the people with some sort of psychiatric disability or a short-term mental illness facing eight weeks of nonpayment come to us, we end up winning appeals for them so they are successful in the end anyway. What happens with these people is, rather than being referred to the appeals system and being told clearly by Centrelink or their case manager that, rather that case management assistance, they should be appealing and getting payment of their income support pending that review, they are being caught up in case management. They think that that is the solution, only to have the rug pulled out from under them later on in the event that they do win an appeal.

So, from our point of view, it is unnecessarily complex. A simple solution is that, if a person is deemed to be exceptionally vulnerable or to have vulnerable dependants—only a small number of people meet this very tight definition—there should be a discretion not to impose the penalty in the first place. It is the same outcome: something to live on for the eight weeks. Certainly there could be some arrangement akin to case managing them through that period whilst paying them the income support payment and helping them to manage the payment of those bills.

Senator GEORGE CAMPBELL—Thank you for that explanation. That has helped clarify a number of aspects of the bill from my point of view. I have a specific question in relation to the financial case management payments. I assume that, if someone goes onto social security payments under the Social Security Act, they make an application to do so and that they are assessed as to whether or not they are eligible for those payments. How do they get into the financial case management scheme? Do they apply for that or is that initiated by the department?

Mr Raper—Thank you for the question. First of all, as you know, the person would find themselves having no payments because they have an eight-week no payment penalty imposed on them. Centrelink should invite them to then go to one of the organisations that have been given a contract by Centrelink. Very few, as you are probably aware of the non-government organisations, the church charities—none of the majors, a couple of minor church charities, in some areas—took this on. Mostly they did not, so it is Centrelink. In the event that there is one of these non-government organisations that has taken on the contract, Centrelink would invite the person to go and visit one of these organisations and have their essential payments determined, whereupon the judgement of that organisation would be sent to Centrelink. Then a recommendation that the following payments of up to—not necessarily the total—the actual $210 a week entitlement would be made directly by Centrelink. Most people do not know about it, certainly, and they are in such a distraught state of mind to find that they have no payments for eight weeks that it does require Centrelink to initiate getting somebody from there to determine which payments might be made directly on their behalf or sending them round the corner to one of the very few organisations that have taken on this project.

Ms Forbes—Our understanding is that the only people who Centrelink refers for financial case management are people who Centrelink has deemed to be either exceptionally vulnerable or to have vulnerable dependants. That first decision is made by Centrelink before that referral. That is what I was trying to allude to before. At the point when Centrelink is assessing whether a person does meet the criteria for exceptionally vulnerable or considering whether they have vulnerable dependants Centrelink should be doing two things: they should be considering not only referring them for financial case management but also assisting the person to decide whether it is worthwhile appealing. If it is worthwhile appealing, that person will get automatic payment of their ongoing social security entitlement pending the outcome of that appeal, which is a much better result than referring the person for financial case management, which, if the amendment goes through as it is, may finally be recovered from them. That is a poor outcome. By definition, these people are already exceptionally vulnerable—not just a bit vulnerable but exceptionally vulnerable. They are people with mental illnesses or behaviour disorders who are having trouble with financial management and life generally and who are having a great deal of difficulty in meeting their Centrelink obligation.

Senator GEORGE CAMPBELL—If they have been initially assessed by Centrelink and have been referred for financial case management and presumably assessed by whoever they are referred to, how then do they get back in the position where a determination is made that the payment should not have been made?

Ms Forbes—Our understanding is that one of the situations in which it is envisaged that a decision would be made that the payment should not have been made is where down the track the person does appeal and the person wins their appeal—either through internal review or at a tribunal. If they win the appeal, they are entitled to the arrears of their income support payments for the eight-week non-payment penalty. If the person appeals within the penalty period, they get a payment pending review, so the issue of case management goes way. Instead of case management, they get payment. If they win the appeal after the nonpayment period has gone past and they were not subject to case management then they just get the back pay—they somehow survive through the eight weeks. But if they were getting case management then this amendment, it seems, seeks to create some sort of informal overpayment whereby the value of the assistance extended to the person through case management can be deducted from the amount of arrears otherwise payable to them.

That is where it becomes really difficult, because what is the amount that should not have been paid? What if the amount was to meet urgent medical expenses or to pay a pharmacy bill that has been building up for the person over the last six months or to pay excesses on admission for psychiatric care? There are all sorts of things that you can imagine. Those expenses would probably become more alarming in cases where the person has won their appeal, because the person would have won their appeal on the grounds that they had reason not to comply with some obligation—they have some reasonable excuse. We are concerned that there is a real confusion here between rights on appeal, rights to get case management and the right of Centrelink or the government to recover assistance that has been given to a person that has been in a state of crisis purely because they are deemed to have been exceptionally vulnerable. It is unfair for a start that technically it is impossible for us to

imagine how a decision can be come to as to the precise amount that should not have been paid to a person over that period of case management.

Mr Raper—Linda has given one example of where somebody in Centrelink might deem that, because a person has been successful in an appeal, that amount of money might be overpaid. Two others might help elaborate on or explain this. It would be possible under this provision for a Centrelink staff person to retrospectively decide somewhere down the track that the breached person on the eight-week no payment who was asked to estimate their essential expenses in the fortnight had overestimated their essential expenses and that they really did not need that particular food product or that they did not really need those medicines. It would be possible. That might extreme, but because there is no legislative base here it does open it up to the possibility of somebody saying, 'Hang on, we think they have overestimated their essential expenses and we have paid them for something that we no longer think we should have.'

Another instance would be if a person earned income during that period for which they were given some payments for their essential expenses. But there is no obligation during that eight-week no payment period because there is no legislative base upon which Centrelink can require you to declare your income, and so a person is not required to declare their income. It might be decided later at some point that, even though they were not required to declare their income, they did have some earnings and so Centrelink is going to say that that money should not have been paid and therefore that was an overpayment. This is the problem that we are drawing attention to—that without that legislative base there is a lack of clarity and so it is open if not to grace and favour then certainly to uncertainty.

Senator GEORGE CAMPBELL—Another area is the contestability of vocational rehabilitation services. How do you think this contestability may affect service delivery for particular client groups, and do you believe any safeguards are required to ensure that the contestability issue does not materially impact upon the clients?

Mr Raper—I am not sure that we are able to help you on that one, in that we did not make submissions on that aspect of the legislation and I only came back to work yesterday from a Christmas summer break. We had a very quick look at the legislation and focused on the two areas of concern that we have addressed in our submission. I think that goes to another aspect which we did not look at in detail. Perhaps we could take that on notice and get back to you if we have anything that we think might be intelligent or of assistance to you on that. Would that be acceptable?

Senator GEORGE CAMPBELL—I am happy with that.

Senator FIFIELD—Michael and Linda, I thought when Senator Troeth asked if you were in favour of the recovery of money paid out under financial case management that you said, theoretically, you were in favour of that but that you did not think there was a fair legislative base for that at the moment. After listening to you further, I am now not clear as to whether or not you are actually in favour of the recovery of that money. Could you clarify that?

Mr Raper—I think it is preferable to say that we are not opposed, if there is legislation at present, as there is, which sets out a person's obligations, responsibilities and entitlements—and this is not in relation to the financial case management system—and which also clearly

defines overpayment and defines that as debt. We have over the years argued that the definition of debt has become ridiculously tight, far too tight, and that not all overpayments should be classified as debt. Nevertheless, that is the situation. Increasingly, governments have defined every penny of overpayment as debt and have sought to recover that. We are saying that that legislative basis does not exist with this because an exception has been made and there is no legislation but that should the financial case management system be brought in for the rest of the system under a legislative base then the debt legislation would also prevail and we would accept that. It would be clear; it would be the same as everything else. That does not exist at the moment, so that is the problem we are drawing attention to.

Ms Forbes—What is ironic about this, though, is that once you get to that point where you set out the person's rights and obligations to have a case management system make payments for them and you set out the individual's rights, the Commonwealth's rights and obligations and also Centrelink's obligations in administering these, including the necessity that the person be informed of what they are required to notify Centrelink of, it starts taking on the characteristics of an income support payment.

So, for this small group of exceptionally vulnerable people and people with vulnerable dependants, if they are so exceptionally in need, rather than subjecting them to this system which is very complicated and where it will be hard to ensure that all those rights and obligations are met and explained, why not just have an exemption from the requirement of a nonpayment penalty of eight weeks if they fulfil those criteria. It goes full circle.

Senator FIFIELD—Just to be clear in my mind, you are suggesting that these exceptional cases should ideally be handled in a different way. Your recommendation is that this particular provision be withdrawn. I do not want to put words in your mouth so just tell me whether I am correct.

Mr Raper—Yes.

Senator FIFIELD—So this particular provision should be withdrawn but if the government is determined to proceed with the system where financial case management scheme moneys are recovered then it should move to a legislative basis to do so.

Ms Forbes—That ironically leads to the point that the qualities of the system would mean effectively making income support payments to a third party. Surely, it is more straightforward not to impose the penalty on that exceptionally vulnerable person. It is not included in our submission, but certainly it would be open for the government to think what could be done to assist that person and to avoid further mishaps by way of meeting obligations to Centrelink. Why not just provide financial counselling for a person through a case manager through what would otherwise have been the eight-week nonpayment period?

Senator FIFIELD—Thank you.

Senator BARNETT—I have a quick question in regard to a submission we had from the Australian Federation of Disability Organisations. You may not have addressed your minds to the issue that they raised with us this morning regarding equitable access to rehabilitation services. They tabled some documents which set out comprehensive accessibility guidelines that they wished to be incorporated into relevant contracts with the private sector providers. I

am wondering whether you have had a chance to consider that submission or that issue and whether you would wish to respond.

Mr Raper—I think the best answer at this stage is no, we have not had a chance to really consider that. Again, as we said to Senator Campbell, perhaps we could take your question on notice too and if we thought we had anything we could add to that we could get back to you.

Senator BARNETT—That would be fine. I will leave it open to you if you wish to make an observation or a comment, that would be great. If not, that is fine as well. Thank you.

Mr Raper—We did have some involvement with DHS in looking at access to rehab services so we might be able to add something that might be of assistance.

CHAIR—That appears to be all. Thank you very much for appearing before us today.

[12.04 pm]

SANDISON, Mr Barry, Group Manager, Working Age Policy Group, Department of Employment and Workplace Relations

WASLIN, Mr Tony, Group Manager, Specialist Services and Income Support Group, Department of Employment and Workplace Relations

CHAIR—Thank you for your submission. Do you wish to make any amendments or alterations to it?

Mr Sandison—No.

CHAIR—I now invite you to make an opening statement after which committee members will ask questions.

Mr Sandison—I will make a very brief opening statement to let you have some time for questions. I will note the key points. This follows on from the recent Welfare to Work reforms, which saw some significant changes in the area of income support and employment services. The particular focus of these minor amendments are to support the reforms in Welfare to Work and basically to ensure the integrity of the system overall. In some of the major areas in the vocational rehabilitation area the reforms are aimed at the staged introduction of partial contestability and the creation of a level playing field for the provision of vocational rehabilitation services. Those services are an integral part of the reform measures that were put into place last year, with the provision of services to people with a partial work capacity.

I would like to make a key point in the area of the pensioner education supplement: after a first review is conducted into their DSP eligibility, people are not considered to be part of the transition group after that review. The intent we had was to support people in that transition group. I note the comments in other submissions about the second review and why it would be unfair if after the second review they got moved to Newstart and they were not allowed to take PES with them. From our viewpoint the issue was to protect people in the transition group. Once a review has been undertaken we would not consider them part of the transition group; they are just a DSP recipient, and the same rules should apply to them as to the other 710,000 people that were grandfathered.

On the issue of financial case management, the point I would like to highlight is the fact that the changes that have been put forward in relation to financial case management are about the 'how' in the recovery of debt, not the original decision on debt or the amount of the debt and the appeal rights about the debt. It is putting forward a proposal around how it should be recovered and suggesting a simple process by which it can be recovered. The debt itself can be raised now under the Financial Management Act. So we are not trying to change the nature of the raising of the debt; this is about how to make it an easier and simpler mechanism to recover. We are in your hands.

CHAIR—Apart from the two items that you have mentioned there were some other comments earlier this morning questioning the ability of monitoring and quality assurance procedures that would be in place to make sure that private rehabilitation service providers

continue and give their clients a high level of service while also containing program costs and expenditure. Can you give us an idea of the procedures that will be in place?

Mr Waslin—Essentially, we operate this contract under the same provisions as the contracts we have with other employment service providers. Certainly, we have the terms of the contract and the expectation of delivery under that. We have an arrangement with our state offices where we have contract managers who are constantly monitoring the quality of the services that are being provided. They are expected to be physically in touch with those providers. We have certain standards which need to be addressed—we have an intention to publish, as we do with our other employment service providers—that agree on the quality that those organisations are to meet in the delivery of that contract. We call them star ratings and no doubt you are aware of those sorts of things. So those things are out there. They are to inform the market but also to inform the individual about the degree of quality and the expertise that an organisation has. We are constantly reviewing the coverage of our contracts to ensure that we are getting both the volume and the quality we expect, and on a milestone basis we are reviewing the ongoing contract arrangements.

CHAIR—So you would consider that introducing the notion of contestability will give the government and indeed the consumers a benefit that they would not have otherwise had?

Mr Waslin—That is the intention. Certainly, in many locations it means that individuals have a choice of more than one provider and that allows them to go down a specialist stream if that is what they need or to choose amongst generalist providers, if that choice is available to them.

CHAIR—We had a query from a disability group that we saw this morning about the provision of access and the way in which that will be monitored. For instance, if a provider sets up in a town or, indeed, in a city, will there be procedures put in place to see that, given that this is the client group that will be affected, disability access will be provided?

Mr Waslin—That is right; in fact, it is a condition of our contract.

Senator MARSHALL—If a person has their rehabilitation program decided by a private provider, is the content of their program reviewable?

Mr Waslin—It is. Initially, we would make an assessment of the best channel for that individual to be aided. If they are sent to a VRS it would then be up to the individual and the provider to come to an agreed position about their best course of action. That is then documented, but it can be appealed if they are not happy with the outcome.

Senator MARSHALL—What is the mechanism for the appeal?

Mr Waslin—There are a number of processes that are available to them. Obviously, there is a complaints line. We encourage individuals to first deal with the content of the coverage with the organisation that they are dealing with. If it cannot be resolved between the individual and the organisation, we then have processes whereby the department would come in and review the establishment of the program with the organisation we contracted out.

Senator MARSHALL—That is not really an appeal process; it is a complaint process.

Mr Waslin—That is the complaint process. It can then be taken to an appeal process if that is required.

Senator MARSHALL—Who makes that decision?

Mr Waslin—The individual.

Senator MARSHALL—So the individual can get a review?

Mr Waslin—That is correct, but we encourage them to try to address the issue initially with the organisations. Then, of course, there is an escalation process if the issue cannot be resolved.

Senator MARSHALL—Does the tender for rehabilitation services ensure that all providers will have full disability access?

Mr Waslin—I believe it does. Certainly, when we ask organisations to sign a contract with us, it is a condition of that contract arrangement that access is provided. Of course, we have our contract managers who will check that before they open.

Senator MARSHALL—Will the tender documents be available for scrutiny?

Mr Waslin—We are in a purchasing phase at the moment. We have approached the market already for a proportion of the new business. Tenders have closed and we have completed the assessment. We will go into the business and allocation phase before we make the results of the tender known. The tender itself is certainly publicly available.

Senator MARSHALL—What guidelines will be in place to ensure that providers have full disability access? How will the department audit that after the tenders are let?

Mr Waslin—It is a condition of the contract that those organisations would sign with us. We require our contract management—our state based staff—to physically visit those premises to ensure that that condition has been complied with.

Senator MARSHALL—In terms of the secretary's power to enter into arrangements with providers who do not meet the Commonwealth disability service standards, will these arrangements require eventual compliance with these standards?

Mr Waslin—I understand that is the case.

Senator MARSHALL—What time frame will providers have to meet these standards?

Mr Waslin—In the contract, there is a series of standards which need to be met. We are allowing accreditation to occur within the first 12 months, but the physical standards need to be met with immediately.

Senator MARSHALL—What penalties will apply if they fail to meet the standards?

Mr Waslin—It would be the normal approach that we take under our ongoing contract arrangements with all providers. We constantly review the quality of the service and their capacity to meet the contract requirements. Clearly, if organisations are not going to meet those contract requirements, we will need to take action against them.

Senator MARSHALL—So is there a time frame?

Mr Waslin—We would set a time frame on an individual basis. It is about organisations demonstrating their capacity to adjust and to meet our contract arrangements. We would certainly give them some time in which to do it. It will be dealt with on an individual basis. Essentially, when we go to tender, we ask organisations to declare exactly how they are going

to operate. We make an assessment of that capacity when we are going through the review of the tender. When we start to allocate business, we obviously allocate business to those organisations that are most highly rated and have the capacity to deliver under the terms of the contract.

Senator MARSHALL—Thanks. The Mental Health Coordinating Council and the Mental Health Council of Australia have raised specific concerns about the adequacy of rehabilitation services for people with mental health issues. What is the department's response to their concerns?

Mr Waslin—I think there is a specific element under the contract. I just need to refer to my notes to be sure.

Mr Sandison—One of the overriding issues, Senator, is the fact that if you win a contract as a provider you are required to meet the requirements under the tender to support people whatever their needs are in relation to rehabilitation. So to be able to meet those requirements you have to show and demonstrate through the tender process that you have got the professional capacity, the capacity as an organisation, to meet the needs of the individuals—and that is across mental and physical disabilities, the need for rehabilitation.

One of the overarching things that probably needs to be remembered is that, with all DEWR contracts with our providers, the performance of the providers is monitored all the way through. Where people cannot meet the requirements of individuals they are not going to deliver the outcomes in terms of rehabilitation, assisting people into employment, and that will show. Just as with our other services of Personal Support Program, Job Network and so on we monitor all the time the outcomes being achieved, and where we can measure through star ratings and so on the high performers and low performers there are business reallocations. There are mechanisms to ensure that those that can deliver the services at the high standard are the ones that are supporting the people that need the assistance.

Senator MARSHALL—Is that the only form of auditing you do? Once a tender is let—assuming people meet the criteria, the tender is let—is your auditing really just looking at the results or do you do an ongoing audit to ensure that people continue to meet standards required?

Mr Sandison—No, as Mr Waslin said, there are still physical checks—our state office staff go out and visit sites and maintain an engagement with our providers across all the different services. So we look at the outcomes side but they also look at the capacity of the organisation. There is an issue for state office staff to remain aware of the substance of the organisation in terms of its financial standing, if there are issues raised in the community. State staff and contract managers overall have to maintain an awareness of the status and the capability of organisations. As well as through data, we look at the outcomes being achieved by those organisations. So I think really it is the input and outcomes sides that get monitored by the department.

Mr Waslin—In fact, the star ratings take into account the key performance indicators which are contained in the contract. They are based on achieving outcomes for individuals, but one of the KPIs is about the quality of service those organisations deliver.

Senator MARSHALL—Thanks.

Mr Waslin—If I can go back to your previous question: within the tender arrangements, part of the incentive payment structure allows for an intermittent support fee, which is specifically for individuals with mental health issues. That is an additional fee of $605.

Senator MARSHALL—Okay. Moving on to the pensioner education supplement, what benefit does the department see in making these restrictions?

Mr Sandison—The primary issue was to make sure in the first place that we had supported the transition group—the group that had moved onto DSP between the budget in 2005 and 30 June 2006. It is actually looking at their capacity to maintain the supplement, if they were studying beforehand, if they were moved over to Newstart. With that group, when they are reviewed it is the first review that might move them over onto Newstart, and if they were studying we wanted to protect that capacity to study. Currently, somebody who is on the disability pension, if they are studying and they are on PES and they get reviewed through an ad hoc review—a change in circumstance, earnings being displayed—and they happen to be moved onto Newstart they lose that entitlement. That is the 710,000 'grandfathered' people. So what we wanted to do was provide a surety, a protection, for the transition group, because they are in the in-between area, that if there is a review that says, 'Under the new rules you move to Newstart,' you can continue to study if you are already studying.

If there were a second review later on—and that is the issue we are trying to address with this change—in four or five years time, then they should be treated as a DSP person. They have had one review that said, 'No, you are still on DSP'—they are not a transition person anymore; they are just a DSP recipient—and it was not the intention of government to leave that hanging for five, 10 or 15 years where that person could subsequently end up with another review, through whatever change of circumstance, and still be given the support of PES and move across. They should be treated the same as the other people that are on DSP.

CHAIR—So that transition group is defined by a time element rather than by category.

Mr Sandison—That is correct.

CHAIR—It is the group between the introduction of the legislation and June 2006. Is that correct?

Mr Sandison—Between budget night 2005, when the decision was made—once there is an announcement, that is when you start grandfathering and so on—and 30 June 2006. There is a group of people in there of which only one part might end up with a partial capacity and might need to be moved over to Newstart. The government brought in a safety net for PES but we did not block off the issue that that could go on for five, 10 or 15 years.

CHAIR—Yes. Thank you.

Senator MARSHALL—How is this consistent with the spirit of the government's previous commitments, as outlined in the explanatory memorandum?

Mr Sandison—The commitment given was to ensure that, under the new rules, after two years of people moving onto DSP but being in the transition group, they would be reviewed. That was the intent of the government's decisions in this area. A small number might be reviewed beforehand because of a change of circumstance but the majority would be reviewed two years after they moved onto DSP. Under the new rules, and if their partial work capacity

were established, they would be moved from DSP onto Newstart. The intent was to protect that group of people when that review happened so that if they had made a decision to study they would not receive a penalty, in the form of loss of the pensioner education supplement, when they moved over. It was not the intent that a group of people would go onto DSP and potentially stay there for five or 10 years and then maybe move over with PES, if they established a work pattern or had a change of circumstance.

Senator MARSHALL—Are you saying that people will continue to receive the same study assistance, being the pensioner education supplement, until they complete their course?

Mr Sandison—If it is after that first review. The issue is that the first review is saying: 'You're in a transition group. We now need to make a decision, as established under the transition arrangements, on whether you have a partial work capacity.' If you are moved over onto Newstart under that first review then you take PES with you and you continue that course of study until it is completed. The intent was not to allow somebody who happened to be in that transition group at the start but who has since been a DSP person for three or four years and who has started studying to then be moved over to Newstart if there were a change of circumstance and to carry PES with them. The government clearly defined that their support was for the transition group in that review process. When the decision was made in the first review to move that group over to Newstart, the idea was that they should still be supported. That is in line with what is happening with parents. When parents are moved over with the requirement to look for work, if they are studying and getting access to PES they will continue on that course as well. But a new person moving straight onto Newstart as a principal carer does not carry a PES capacity; they are a Newstart person. The aim is to keep things in alignment and not to have them spread out into different areas.

Senator MARSHALL—What evidence is there that these restrictions will improve the long-term employment prospects of people affected?

Mr Sandison—The decisions are made more in keeping with the fact that people who are on DSP do not have a requirement to look for work; they get supported while they are on DSP to study if they would like to. There is not a requirement that that study has to be in relation to looking for work. It is an open accessibility to PES, so it is not about linking them to look for work when they are on DSP. If their circumstances change then it is an issue for them to move over to Newstart and look for work. It was defined to keep it in line with the 710,000 people already on DSP and the rules that affect them.

Senator MARSHALL—How much money does the department expect to save as a result of these restrictions?

Mr Sandison—I do not think there was an assessment done. I would have to take that on notice and check, but very small numbers would be involved. There are 710,000 people on DSP. The transition group is of the order of 100,000. We would identify the partial capacity group from those who would get a review in the first place—and they still would get PES. They would move over and still get PES.

Senator MARSHALL—What number would that be, for example?

Mr Sandison—I think we gave evidence in Senate estimates that there might be 20,000 to 25,000 in that transition group. It lasted for a bit over one year. So their assessments are done.

The remaining group that you are talking about are part of a subsequent review of people from the transition group who then might have had a change that has given them a partial work capacity. We are talking scores, so the quantum involved is not a savings issue. It is about clarity, the integrity of the system and how existing DSP people are treated.

Senator MARSHALL—So you estimate fewer than 100? You said 'scores'. I am trying to—

Mr Sandison—It may be in the order of fewer than 100, yes.

Senator MARSHALL—I am just trying to get a ballpark figure. I will not hold you to it. We will do that in three weeks time. I will move on to the recovery of financial case management payments. How does a person access financial case management?

Mr Sandison—Basically, they would first of all have to be in receipt of an eight-week penalty. They would then have to establish vulnerability. The two major criteria for vulnerability are that they have dependants in the household—primarily that would be children, but it may be parents that they are looking after in the household—or they are vulnerable in themselves. That was put in to ensure that we could take account of people with mental health problems in particular and potentially people with medication issues, so that they had the money to pay for medication. Basically, from there, a decision is made about whether people fit those categories. They are then offered financial case management. Just because you are eligible it does not mean that you actually get it. There is a significant number of people who actually decline the offer of financial case management. Then, with the offer of financial case management, if the person accepts, a decision is made about what kinds of bills might be paid. The requirement under financial case management would be for Centrelink to talk to the person and refer them to an agency that delivers financial case management, and then for that agency to talk to the person about the kinds of payments that they might need to make while they are in the eight-week penalty period.

Senator MARSHALL—Are you saying that there is no actual entitlement—it is a discretionary payment decided by Centrelink officers?

Mr Sandison—It is not a payment. Financial case management is a status. Then payments are made to pay for your bills. The first thing is to establish the status of the person in terms of eligibility to receive financial case management. There are guidelines—

Senator MARSHALL—You say 'eligibility'. How do you meet the eligibility test?

Mr Sandison—If you have children, you meet it. It is as simple as that. I am sure there would be some areas where there would be a discussion about a person's individual vulnerability if it is their mental health, but our guidelines in that area state that if it is identified that the person has a mental illness and they are paying for some medication, that would be a reason to identify them as being eligible as well. But, primarily, 95 per cent are people who have children in the household.

Senator MARSHALL—What appeal rights does a person have in respect of a decision regarding their access to financial case management?

Mr Sandison—Primarily what would happen is that people would appeal the eight-week penalty in the first place. That is where the formal appeal process would be. They could then

challenge the Centrelink decision about financial case management. It is a program—it is not a social security payment or entitlement. So you have one issue, which is the eight-week penalty, and that is under social security legislation—that is the normal appealable process up to the original decision maker and then to a review officer in Centrelink, the Social Security Appeals Tribunal and AAT and so on. That is the normal process for the eight-week penalty. If a person did not get offered financial case management, they would just have to challenge that with the person making the decision about eligibility in Centrelink.

Senator MARSHALL—That is not an appeal process.

Mr Sandison—No, it is a challenge of the decision, as for other programs we have. It is identified as a program.

Senator MARSHALL—I just want to be clear, because it has been stated by previous witnesses that there is no appeal process. I just want to make sure that that is in fact the case. I think you support that. There is no appeal process?

Mr Sandison—No, not in that form.

Senator MARSHALL—Who administers financial case management?

Mr Sandison—Centrelink.

Senator MARSHALL—If a person is granted access to financial case management, under what circumstances would the money provided under financial case management be recovered?

Mr Sandison—Firstly, there are no cases of recovery at this stage. We are six months into the first year and the numbers in financial case management are relatively low. The numbers actually accepting it are lower again. An example would be where a person received an eight-week penalty, they were offered financial case management and accepted it and they had $500 worth of bills paid. It is not a payment entitlement. A $500 electricity bill in midwinter would be an example.

They finished the eight-week penalty and subsequently appealed because they still did not believe that they should have had the eight-week penalty. By the time that has gone through the eight weeks is over but they won. What would happen is that they would be back paid their social security entitlement, because they should have been paid it, but in the meantime they have had a $500 bill paid, which they normally would have paid from their social security entitlement. So that would be a debt owing. Under the current situation, that debt can be raised anyway under the Financial Management and Accountability Act. That is why I raised at the start that this is an issue of the how, not whether, a debt gets raised. So the debt would be there.

For a lot of people one of the simplest ways to repay your debt if you are on social security is to have a proportion of it paid out of your social security payments each fortnight. Normally you would go to Centrelink and arrange for that debt to be repaid. I think that under the current guidelines the amount is in the order of 14 per cent or 16 per cent. That might be the sort of figure. If you can stress particular circumstances, it might be lower. But that would then allow for a regular payment to come out of your income support.

The reason we have to bring this in is that under financial case management the debt is related to the program, so we have to pay the income support to the person. Otherwise, the first step would just be to say, 'Here is your back dated eight weeks of income support less the $500.' As has been noted by the various witnesses, they are two separate things, so we back pay the eight weeks and then say, 'Right, you owe us $500 and this is the simpler way.' The debt is still raised. This does not change the fact that a debt is raised. It just has to be recovered through a separate mechanism and not through income support means. That is not necessarily the simplest way or that with the least impact on the individual. The best way is to tie it in with a discussion around their income support.

Senator MARSHALL—The example that you gave us was that if the eight-week penalty was appealed and the person won that. Are there any other ways a debt could be raised through financial case management?

Mr Sandison—We try and think through every way that certain things might happen in social security and, as we all know, after a while some other things happen and you learn different ways that things can happen. Another one could be that even during an appeal you might not win the appeal, but if you are partway through an eight-week penalty and your appeal is happening, you are put on payment pending. So your income support is reinstated until a decision is made about whether the penalty should apply.

So if a payment has already been made—because you would have been put on financial case management if you were eligible and accepted—and you then make an appeal, forgetting what happens at the end of the appeal process, you are put on payment pending. So there could be an overlap in terms of a payment made for you and you starting back again on a payment three weeks into an eight-week penalty period. There might be a debt involved there where the two figures do not work out. All we want to do is link it so that the entirety of income support and whatever has been paid through financial case management can be managed together.

Senator MARSHALL—With the example, and I may have misinterpreted what was said to us this morning, is it possible that someone is granted financial case management payments and then a decision is simply made later that they were not eligible and a debt raised in those circumstances? The proposition put to us this morning—and I want to make sure I understand what is happening—was that there is no real test applied; it is very discretionary. There are some threshold criteria which have to be met for people to be eligible for these payments, but it is really an unappealable decision made by a Centrelink officer. And if the decision is made that it is granted, subsequent to that decision, a decision may be made that it should not have been granted and a debt raised under those circumstances. Is that possible? The position put was that, if you were eligible at one point in time and the same person decided you were ineligible later, that should not have then made you ineligible for the period of time that you got it, and a debt should not be raised under those circumstances.

Mr Sandison—In those circumstances the decision maker in relation to what gets paid—and this is managed by Centrelink—is, I think, the provider, at the end. If a local community organisation is the provider for financial case management, you would go and talk to them. You would bring in your electricity bill and say: 'I'm on an eight-week penalty. I want to pay this bill so I do not get cut off.' The decision is made by that community organisation. If there

were a change made by them, Centrelink would have an opportunity to look at it. If it got raised, we would also look at it in terms of the entitlement and the impact on the individual. While it is not an appellable issue, it is a program management issue about the way people are treated and services delivered. The possibility might be there, but I would extremely doubt that a local welfare organisation is going to pay a $100 bill for something and then put their hand up four weeks later and say: 'I don't think I should have made it for them. I think there should be a debt.' The experience is that it is at the other end that that goes ahead. I do not know Centrelink's review processes or decisions or the individual payments that are made by the individual providers. I would have to find that out. Perhaps I can take it on notice to find out how Centrelink might look at the individual decisions.

Senator MARSHALL—Yes, if you could. As you say, it may never happen, but I am interested in the possibility because, under those circumstances, it would appear to me that it is appealable by the provider but not appealable by the recipient, which seems to be an inequitable position.

Mr Sandison—The recipient would go back to Centrelink, not necessarily as an appeal. They would go back to the individual who told them they would get financial case management in the first place and say: 'Organisation X, a community organisation, has changed their mind about me getting payment on something. I do not think that is right or fair. What can I do about it?' At the very least, it would be a customer complaint which Centrelink would take very seriously.

I acknowledge that welfare groups raise these issues and the discretion that is available. Equally, we tend to get hammered by the welfare groups where no discretion is available because we cannot respond to individual needs and circumstance. So there is always a double-sided debate around discretion and how useful it is, or is not, in the circumstances. If there were a cast-iron set of rules that said, 'Only in these circumstance pay these sorts of bills,' within a month we would have someone saying, 'Yes, but what about if somebody's solar panel is not working and that is their only form of electricity?' Our rules say 'electricity bills', so is that one and the same thing? We have very much erred on the side of discretion, because we are trying to respond to individual needs of people at risk, or the kids who are at risk in the houses.

Senator MARSHALL—I appreciate that, but we are concerned about vulnerable people falling through the cracks. It may be a very small proportion, but we want to see whether things are possible or not possible. We are just being thorough, and that is what these inquiries are for. Are there any appeal rights on a decision to recover payments?

Mr Sandison—My understanding of the mechanisms for appeal is that they can go back and question Centrelink, obviously not as a formal appeal. The only other mechanisms are far more formal appeals, not through the social security side. They are through the ADJR, the judicial review, route. That is different from the social security one. Social security has a very clear line of appeal and claim, right through a process. Because this sits outside, there is another formal approach to appeal. I think it is through the judicial review council.

Senator MARSHALL—In these circumstance would Centrelink rely on the advice of the agency who is administering the payment or would they make decisions unilaterally? If they could do that, what would happen if the administering agency did not agree?

Mr Sandison—I think that is a question for Centrelink. On the first part of the question, I think there would be a discussion with the agency involved. In everything else we deal with in these sorts of areas, the starting point is a discussion to work out the whys and wherefores and to understand why a decision was made. On the second part of your question, about whether they would go ahead unilaterally, that is a question for Centrelink.

Senator MARSHALL—Centrelink is not coming.

Mr Sandison—I think they were looking more at the nature of the legislation—how the cost recovery would take place—and not going back a bit into the whys and wherefores of debts and so on.

ACTING CHAIR (Senator Marshall)—Let me think about your answer while Senator Fifield asks some questions.

Senator FIFIELD—Mr Sandison, Senator Marshall elicited most of the information I was after. I will not hold you to the name of this review body—whether it is the judicial review council or something else—but is it a body which people who are the subject of debts which are raised under the Financial Management and Accountability Act, regardless of program or portfolio, can appeal to?

Mr Sandison—That is my understanding. I could get information about that group and who appeals to it, and provide that information to you.

Senator FIFIELD—I would appreciate that because, as you said, this is a program and debts are raised under the Financial Management and Accountability Act. I would be very interested to know whether, whatever the process is, that is the standard process for recovering money from people who are given money under programs when they are not entitled to it—a debt is raised according to that act, and that is their avenue of appeal. I would appreciate that information.

Mr Sandison—I will get that information.

Senator GEORGE CAMPBELL—There is an argument whether payment by the financial case manager to the recipient is a debt or a gratuity—or charity, as someone described it this morning. Does the recipient sign anything to acknowledge that they have received the payment and that, in certain circumstances, it may be repayable?

Mr Sandison—Yes.

Senator GEORGE CAMPBELL—They do?

Mr Sandison—When they are identified as being eligible for financial case management, on the form they have a sign-off point that acknowledges that if the payments are made incorrectly then they will have to pay back the money to Centrelink. So it is on the form, and I understand that that is when they are told, 'Yes, you are entitled to financial case management.' And then when a payment is actually being made—'We will pay the electricity

company for you'—they also sign there acknowledging that if that is an inappropriate payment—

ACTING CHAIR—You used the word 'incorrectly' before, and then 'inappropriately'.

Mr Sandison—In these circumstances it might be that it was incorrect or inappropriate—

ACTING CHAIR—They are very different meanings.

Mr Sandison—If there is fraudulent activity—and that is often the case—we have to have a bottom line. If somebody has been acting fraudulently there is a requirement to be able to recover money from them. And the other situation is where they appeal and have had back payments. So if one is inappropriate or incorrect then the requirement is for the individual to say that they acknowledge that the money would have to be repaid. I can get the exact wording. It would probably be easiest if I could get the financial case management form with the statement on it for you.

Senator GEORGE CAMPBELL—Could you do that, because there seems to be some questioning of just exactly what does apply here and what the rights and obligations are. The government is seeking to legislate a right to recover these payments yet they are not seeking to put in legislation the right to make the payments. Why?

Mr Sandison—They already have the right to recover the money under the Financial Management and Accountability Act. All they are trying to do is have it linked to the Social Security Act so it can be done in a simpler form. My understanding of the recovery process would be that the individual could be required to go around to Centrelink with a cheque for $20 once a fortnight, because the debt can already be raised, if it were to occur, under the financial management act. All we are saying is that it could be done automatically in a way that is more convenient to the individual, or through a simpler 'mechanism'—I use that word advisedly—to have the process operate that way. Most people on income support are used to that kind of mechanism.

Senator GEORGE CAMPBELL—Why would you not spell out in legislation both the provision to make the payments and the provision to recover it?

Mr Sandison—The need we had was to actually put this into place. There was no need to do legislative amendments to set the debt in place in the first place. The program is outside the Social Security Act anyway; therefore, all that can be done. It was just a matter of the recovery.

Senator GEORGE CAMPBELL—Are you aware, Mr Sandison, of any other provisions where moneys are paid under the Social Security Act that a similar set of circumstances applies in respect of recovery?

Mr Sandison—I am not aware.

Senator GEORGE CAMPBELL—So, to your knowledge, it does not apply anywhere.

Mr Sandison—No but, again, this is the realm of our legal people; I can check for you.

Senator GEORGE CAMPBELL—Would you take that on board and check for us.

Mr Sandison—Certainly.

Senator GEORGE CAMPBELL—Mr Waslin, with regard to the standards you were talking about in terms of the providers' application of rehabilitation services, does a contract set out the standards or the quality control measures that will be implemented by these particular providers?

Mr Waslin—I do not have it in front of me but I believe it does. We certainly have a code of practice that we are seen to adhere to, and there is certainly a layout of the sorts of services we expect people to deliver and the conditions under which they do so. I can get you a draft copy of the contract, if you would like to see that.

Senator GEORGE CAMPBELL—Can you do that. To your knowledge, does the contract provide for a penalty upon these providers if they do not meet those standards?

Mr Waslin—I am not aware of that; I would need to check that.

Senator GEORGE CAMPBELL—Could you check that out as well. In your initial comments you said that this would give a choice of more than one provider. How do you guarantee that in every marketplace? That does not occur now, does it?

Mr Waslin—No, that does not occur now. There is one provider in the marketplace—that is, CRS. What we are endeavouring to do under the partial contestability is to sign up organisations to deliver roughly about 30 per cent of the VRS business.

Senator GEORGE CAMPBELL—There are other areas of provision of services by government where there is contestability, but not every marketplace has a choice of more than one provider.

Mr Waslin—That is correct.

Senator GEORGE CAMPBELL—You said that there would be a choice of more than one provider.

Mr Waslin—I stand corrected. I thought I said that it may allow a choice of more than one provider in some locations. Obviously when we are offering a split of about 30-70, the bulk of the business is still with CRS and, in many locations, they will continue to be the sole provider. But in other markets more than one provider will be available.

ACTING CHAIR—So the extra providers, or the private providers, will always be in a situation where they are providing the extra support or the choice, or will they become the exclusive provider in some areas?

Mr Waslin—We are not quite sure of the answer to that yet. Obviously we have gone to public tender. We have assessed the organisations that meet the standards and the quality of delivery we expect. We are now in a position to start, in February, to look at where those organisations are likely to be located and the sort of business they are bidding for, and then we will look at the volume of business in that area and how viable it would be to put them in there. We are not quite sure exactly where those organisations will be put yet.

Senator GEORGE CAMPBELL—Will you require them to apply the rules that are applied in some other areas. They just cannot pick up the high-volume areas but they have to pick up some of the low-volume areas, so the Commonwealth is not left with the marginal areas to service while the private providers pick the cream off the top.

Mr Waslin—Again, because we are in a 70-30 split, it may not be practical to force some of these organisations into markets where there is not the volume of business to have two organisations. I think our fallback will be CRS, under the current arrangements, but, again, we are not quite sure where exactly these organisations will be located because we have yet to go through assessment of the locations where they have bid and the viability of putting them in there. We need to balance up the potential number of individuals who need servicing in that location against the parcel of business that CRS have the capacity to deliver and the capacity of those new organisations to come into that location as well.

While I say that, there is additional business coming through the Welfare to Work arrangements and so there is capacity to pick up additional people because of those individuals who might be on Newstart allowance and who choose to seek the assistance of a VRS organisation to aid them in getting back into employment. So we are looking at additional business beyond what CRS is currently delivering in locations.

ACTING CHAIR—It occurs to me that, while you may be introducing contestability, you are not actually ensuring you are introducing competition.

Mr Waslin—It is not universal competition. It will certainly be competition in the larger markets where you can sustain more than one organisation, but it is not in our interest to tender organisations in locations where they are not going to be financially viable and able to deliver the required quality service to the individual.

Mr Sandison—I think it worth noting as well that, as a staged process, the government had made step 1 contestability and, given that CRS has been the sole provider for a long time, you have to bring new people into the marketplace. Because of the quality issues, you do not want to go in and say, 'Look, it is universal competition around the country.' You have providers who are government or otherwise in every part of the country. You want to take it slowly and actually test the capacity of the market to provide a quality service and, in future years—we do our procurement processes for our other services on a three-year basis—you go in and look at the market again. The market changes and the demands change. But equally, with regard to your comment about provision of service in more remote areas or rural areas and government being left to provide the service, there is a requirement to have wherever possible that backstop of a government provider, and financial case management is an example where there are areas in which Centrelink is the provider because other services have not been picked up through a commercial engagement process.

Senator GEORGE CAMPBELL—If you go ahead and introduce the contestability model—

Mr Sandison—Yes.

Senator GEORGE CAMPBELL—then one of the things you have to guard against is socialising the losses and privatising the gains, which is a potential here—people picking the cream and leaving the rest for the community to pay for.

Mr Sandison—That is a risk that was identified in our procurement process but, because it is the very first time it has been done, we have to wait and see what the response from the marketplace is under the current procurement process.

Mr Waslin—With our other employment services we do not necessarily get 100 per cent coverage the first time we approach the market. Some organisations declare that in some areas it is not financially viable to be delivering services and, because of a lack of providers, we need to make a second approach to the market. We might do that under the revised conditions for very specialist areas of Australia.

Senator BARNETT—With regard to that last point, is there a fixed view that the 30 to 70 ratio should apply, and how did that come about?

Mr Waslin—It is averaged at around 30 per cent. We have approached the market with a parcel of business that is about 20 per cent of the volume of business that CRS is currently delivering and 50 per cent of the new business which is coming out of the additional moneys coming from Welfare to Work. On average, that is about 30 per cent of business.

Senator BARNETT—But obviously that will be a different ratio in different locations and different states and that is not embedded in legislation or any sort of government requirement; is that correct?

Mr Waslin—On average across Australia it will be about 30 per cent but it will vary by location; that is correct.

Senator BARNETT—But it may go up and down over time?

Mr Waslin—No. The first approach will be a contract for the period taking us up to June 2009, and so it will be a fixed parcel of business until that time expires, in which case we would—

Senator BARNETT—That is what I wanted to know, thank you. In financial case management, do you have an estimate of how many customers or clients are being case managed since the start of the program on 1 July last year?

Mr Sandison—It is in the several hundred. I can get you the exact numbers.

Senator BARNETT—I am just getting a feel for the numbers. It is not—

Mr Sandison—It is not a huge number; it is well below the forecasts, particularly with the higher than expected decline rate.

Senator BARNETT—You have agreed to take on notice questions regarding the appeal system from Senator Marshall and, I think, Senator Fifield. Can you take into account, when responding, the National Welfare Rights Network submission. They have expressed concerns this morning about the appeal process. The Australian Federation of Disability Organisations have also expressed similar views, so we would be interested in your feedback on their concerns about that.

Mr Waslin—Yes.

Senator BARNETT—Access to vocational rehabilitation services other than CRS was raised this morning by the Federation of Disability Organisations. They referred to, and have tabled, a document: 'Checklist, information and contacts—access to JCA premises, goods, services and facilities', and they referred to an Australian government job capacity assessment site document, which has been tabled. Mr Waslin, you said that this issue of access would be a condition of the contract. So can we take it that the guidelines tabled today are guidelines that

are included in the contract? And, if not, how is it a condition of the contract? Can you provide further and better particulars?

Mr Waslin—I can get back to you on that. I did not bring the contract with me but I can refer back to that.

Senator BARNETT—The issue of access to these sites is an important issue for people with disabilities and I am seeking some sort of assurance that this is part of the process and it is a requirement in some respect that they can access these sites in an appropriate manner.

The other questions I have are with regard to the benefits of the contestable arrangements that you would see. Can you provide any further and better particulars or further evidence of the benefits of contestability under this new arrangement? Can you flesh out, in terms of the introduction of contestability within the industry, the benefits that are likely to flow?

Mr Sandison—I think the best place to go would be some of the descriptions given when the government decision was announced and in going to the tender. I think that would be best. Some of the information that is covered in the tender documents that we will provide to you would cover that.

Senator BARNETT—In terms of rural and regional and remote Australia and access to these services, are there any particular measures that have been taken to make sure that those areas are properly serviced and cared for?

Mr Sandison—There have been, in the discussions about the establishment of the tender and the 30 per cent target figure and how we manage those processes. Again, that is probably best responded to, on the rural-remote and the servicing, when we provide that other information.

Mr Waslin—Although, prior to going to the market, we did agree with the Department of Human Services and CRS that we would not go to a tender situation for every rural and remote location in Australia, on the basis that it would not be sustainable to put the organisation out in some of those locations and it would be best to leave that parcel of business with CRS who are an existing and established provider there.

Senator BARNETT—If CRS is an existing and established provider then those services will continue?

Mr Waslin—That is correct.

Senator BARNETT—So there are no areas where services will be diminished—is that correct?

Mr Waslin—Yes.

Senator BARNETT—Good. Thank you.

ACTING CHAIR—Just following up on that: I think that is an interesting point because the private providers will not always be in addition to CRS; they will replace CRS in some areas. What happens if a private provider simply ups and walks away? The profit is not there; they are not going to continue in a business that is not making money. What provisions do you have in place?

Mr Waslin—At this stage it is partial contestability; we are only offering a parcel of business equivalent on average to about 30 per cent of the total. And we are not looking to replace CRS in locations; we are looking to supplement CRS. So in the larger locations, where the volume of business is there, we are looking to offer individuals a choice of provider beyond CRS.

ACTING CHAIR—That is what I thought I asked earlier: whether the private providers would always be in addition and so provide that choice, as opposed to simply replacing one service.

Mr Waslin—I am sorry; that will not be in all locations across Australia, though.

Mr Sandison—There will not be a choice in some locations; CRS will be the one there. In other locations the choice will be between CRS and a new provider. That is the intent and until we know through the procurement process what comes out of it we will not know exactly how that falls out. That is a question mark as the first foray into—

ACTING CHAIR—The question I asked was whether the new providers in every instance will be there to provide choice as opposed to replacement. I am not sure what you are saying to me now.

Mr Waslin—I am sorry if I misled you. It is certainly the intention to add additional choice to individuals. We have asked for organisations to respond if they intend to provide specialist service to individuals as well. It is just that we have not got to the point yet where we know where those organisations will be and therefore what choice exists for individuals until we get to the allocation phase and then notify the market of the results of the tender.

ACTING CHAIR—Thank you both very much for your presentation today and the department's submission. You have taken a lot on notice. We appreciate that and the secretary will be in contact with you about a suitable time to get that information to us before we have to finalise our inquiry report.

Committee adjourned at 1.01 pm