



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public)

WEDNESDAY, 31 MAY 2023

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ECONOMICS LEGISLATION COMMITTEE

Wednesday, 31 May 2023

Members in attendance: Senators Bragg, Brockman, Cadell, Canavan, Colbeck, Hume, McDonald, McGrath, McKenzie, McKim, O'Neill, Barbara Pocock, Polley, Roberts, Ruston, Dean Smith, Sterle, Stewart and Walsh

TREASURY PORTFOLIO**In Attendance**

Senator Gallagher, Minister for Finance, Minister for Women, Minister for the Public Service

Reserve Bank of Australia

Mr Philip Lowe, Governor

Dr Bradley Jones, Assistant Governor, Financial Systems

Australian Prudential Regulation Authority

Mr John Lonsdale, Chair

Ms Margaret Cole, Deputy Chair

Mrs Helen Rowell, Deputy Chair

Mrs Suzanne Smith, Executive Board Member

Dr Sean Carmody, Executive Director, Insurance Division

Ms Renee Roberts, Executive Director, Banking Division

Dr Katrina Ellis, General Manager, Superannuation

Australian Competition and Consumer Commission

Ms Gina Cass-Gottlieb, Chair

Mr Scott Gregson, Chief Executive Officer

Mr Peter Maybury, Chief Finance Officer

Mr Tim Grimwade, Executive General Manager, Consumer Product Safety

Mr Rami Greiss, Executive General Manager, Consumer and Fair Trading

Ms Sarah Proudfoot, Executive General Manager, Infrastructure Regulation

Mr Richard Fleming, General Manager, National Anti-Scams Centre Project and Airline Competition Taskforce

Ms Kate Reader, Acting Executive General Manager, Mergers, Exemptions and Digital

Ms Kathie Standen, Executive General Manager, Consumer Data Right Division

Ms Heidi Snell, Acting Executive General Manager, Competition Division

Tax Practitioners Board

Mr Peter de Cure, Chair

Mr Michael O'Neill, Chief Executive Officer and Secretary

Ms Janette Luu, Acting Assistant Secretary

Australian Office of Financial Management

Ms Anna Hughes, Chief Executive Officer

Mr Michael Bath, Head of Structured Finance and Strategy

Mr Matthew Wheadon, Head of Funding and Liquidity

Mr Pat Raccosta, Chief Operating and Finance Officer

Mr Brad Parry, Head of Portfolio Strategy and Research

Australian Reinsurance Pool Corporation

Dr Christopher Wallace, Chief Executive

Mr Michael Pennell PSM, Chief Underwriting Officer

Ms Victoria Simpson, Chief Operating Officer

Mr Alexander Drake, Head of Public Affairs

Productivity Commission

Mr Michael Brennan, Chair

Mr Alexander Robson, Deputy Chair

Dr Lisa Studdert, Head of Office

Dr Ralph Lattimore, First Assistant Commissioner and Chief Economist

Ms Rosalyn Bell, Acting First Assistant Commission

Australian Bureau of Statistics

Dr David Gruen AO, Australian Statistician

Ms Jenet Connell, Deputy Australian Statistician

Ms Teresa Dickinson, Deputy Australian Statistician

Ms Elizabeth Williamson, General Manager, Prices and Economic Statistics Futures Division

Mr Bjorn Jarvis, Program Manager, Labour Statistics Branch

National Competition Council

Ms Julie-Anne Schafer, President

Mr Luke McMahon, Executive Director

Commonwealth Grants Commission

Ms Rose Verspaandonk, Acting Secretary

Ms Therese Maher, Assistant Secretary

Committee met at 09:01

CHAIR (Senator Walsh): Good morning. I declare open this hearing of the Senate Economics Legislation Committee into the 2023-24 budget estimates. I begin by acknowledging the traditional custodians of the land on which we meet today and pay my respects to their elders past and present. I extend that respect to Aboriginal and Torres Strait Islander people here today.

The committee has set 16 June 2023 as the date by which senators are to submit written questions on notice and 14 July 2023 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the Reserve Bank of Australia. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence. The Senate has endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in estimates are relevant questions for the purpose of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. I incorporate the public immunity statement into the *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

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

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

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

(1) If:

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

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

the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

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

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

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

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

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

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

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

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I remind all senators that as we continue our work implementing the *Set the standard* report, as chair I will ensure that proceedings are conducted in an orderly, respectful and courteous way.

The committee has agreed to authorising all media outlets to record the proceedings of the public hearing, subject to the broadcasting resolutions in the standing orders and the following conditions: media entry is subject to not exceeding the maximum capacity of the hearing room and social distancing must be observed; the committee or a witness may object to being recorded at any time, and the committee may require that recording cease at any time; recording must not occur from behind the committee or between the committee and witnesses, and must not otherwise interfere in the proceedings; computer screens and documents belonging to senators, members and witnesses must not be recorded, and flashes must not be used; and the directions of the committee secretariat must be followed at all times.

Reserve Bank of Australia

[09:04]

CHAIR: The committee now welcomes the Reserve Bank of Australia and its representatives Governor Philip Lowe and Dr Bradley Jones. Good morning, Dr Lowe.

Mr Lowe: Good morning. It's a pleasure to be here again.

CHAIR: Good morning, Dr Jones.

Dr Jones: Good morning.

CHAIR: Thank you both for being here with us this morning. In welcoming the RBA, the committee recognises the central bank's independence under the Reserve Bank Act 1959, particularly in regard to monetary policy settings. The committee is cognisant that while the RBA does not receive annual appropriations, it does provide the parliament with opportunities to discuss its insight and performance, which the committee greatly welcomes. As such, no government minister will be in attendance with the committee while representatives of the RBA are present. Dr Lowe, it's normally your practice with us to make an opening statement. Would you like to do that this morning?

Mr Lowe: I wasn't planning on make an opening statement today. I thought it best to use the available time to answer your questions rather than speak at the beginning.

CHAIR: Excellent. The committee will be happy to proceed straight to questions.

Mr Lowe: Thank you.

CHAIR: I'll hand over to Senator Hume.

Senator HUME: Thank you, Dr Lowe and Dr Jones, for joining us. Dr Lowe, there's been considerable media briefing of a closed-door briefing that you had with the House of Representatives economics committee last week. Could you explain, for the benefit of a public forum, why you remain concerned about wages growth and the risks for inflation?

Mr Lowe: I just want to make it clear that it was a private meeting with the House economics committee. I've been doing that for the past seven years, and the governor before me did that for 10 years, so that's been a process that we've undertaken. It's been a constructive process from our side and, I think, from the parliament's side. It was very disappointing that the confidentiality of that meeting was breached and there was reporting to the *Financial Review*. That's very disappointing.

I don't want to talk about the specifics of that meeting—I'm old-fashioned; if a meeting is private, on my side it stays private—but I am happy to talk about the issues. The issue you raised was wages. The particular topic we're focused on at the moment is the growth in unit labour cost. Unit labour cost is the difference between wages growth and productivity growth. Wages growth at the moment is roughly three to 3¾ per cent. Historically, that hasn't been a problem. That would have been a good number. What we have been hoping to achieve over time is an average inflation rate of 2½ per cent and the country hopefully will deliver one per cent productivity growth. And so wages growth of around 3½ per cent was a reasonable benchmark, and we're pretty close to that now.

Nominal wage growth at the moment isn't a problem, and I want to make it clear that nominal wage growth has not been the source of inflation. The problem is weak productivity growth. Over the last three years there has been no increase in the average output produced per hour worked in Australia. No increase for three years, no productivity growth for three years, and that's a problem. And that means that unit labour cost growth in Australia is quite high. We have wages growth of 3¾ per cent and low or no productivity growth. So, that's the issue that I have been drawing attention to in my public comments, that it's a problem for the country and it's a problem for the inflation outlook as well. The central banks in other countries are facing exactly the same situation—growth in unit labour costs is too high. In other countries, wages growth is too strong. In Australia it isn't, but productivity growth is weak and it's a problem. If unit labour cost growth is 3½ to four per cent, then it's hard to have 2.5 per cent inflation. So that's the issue that I'm drawing attention to. The best solution to this is a lift in productivity growth.

Senator HUME: Just to contextualise those comments that have been reported—and you've reiterated now—about why, or whether, the bank will need to continue rate rises if there is wages growth without productivity growth.

Mr Lowe: It all depends. We're very much in data-dependent mode. We've increased interest rates a lot, monetary policy is restrictive and it's working. And whether we need to increase rates further will depend on not only what happens with unit labour costs, but what happens with the global economy, with inflation expectation and with consumer spending. So they're the variables that we're looking at. It's not a single variable that drives our decisions, it's the collection of those variables. We do need to pay attention to growth in unit labour costs, because over long periods of time the price level increases pretty much in line with growth in unit labour costs. There are periods where they differ but, over the medium term, those two things grow together. If we're going to have 2½ per cent inflation, we cannot have unit labour costs persistently growing at 3½ or four per cent. That's a consideration but there are many other considerations as well.

Senator HUME: Is there a real risk, then, like we've seen occur overseas, that wages may get out of control and drive up those inflationary pressures?

Mr Lowe: In the US wages growth was five per cent. In some European countries it's similar. I'm not concerned we're going to see that here. It's a possibility, but it seems, to me, a fairly low possibility. Our forecast is that the wage price index grows by maybe four per cent this year. In the normal course of things, four per cent wages growth is not problematic. But it is problematic if we have no productivity growth. The reasons for weak productivity growth are complex. I think it's partly due to the pandemic; businesses were in survival mode rather than growth mode, investments slowed down and there were disruptions—you couldn't get investment goods and you couldn't get people. All those things hurt productivity growth during the pandemic. That's now behind us, so perhaps we'll now see productivity growth pick up. If we do, and we return to one per cent productivity growth, which is what we've done historically, then the current level of wage growth is not problematic. If we don't, then there is a reality we have to face up to: if there's no productivity growth, then it's hard to have increasing real

wages. That's the reality we really have to face up to, and we need to take that into account in our decisions. But, as I said, it's just one factor. There are a lot of other factors as well.

Senator HUME: Should we be concerned about the stickiness of inflation? Around the world, we've seen inflation remain higher for longer than expected. While policy responses are working, they have a lag. Is there a risk that, potentially, we could declare victory on inflation because we've already believed it to have peaked, and that, potentially, we could make the situation worse and make inflation last longer?

Mr Lowe: We're not going to declare victory until victory is achieved. We won't be declaring victory prematurely. You highlight the persistence of inflation overseas. It's exactly the same issue that I've just been talking about. Goods price inflation has come down. The supply-side problems of COVID are being resolved. Commodity prices are back to where they were before the pandemic. Even food prices in global markets are now coming down. That's all helping and that's driving headline inflation lower. The issue is services price inflation, which is persistent. It's persistent because growth in unit labour costs, in many countries, is high. Wage growth is five per cent in the US and productivity growth is low. That's underlying the persistence in inflation around the world, and it's a concern.

Senator HUME: You've spoken much about productivity growth. I don't think you'll get any arguments from this side of the table about why that's so important. Perhaps for the benefit of the *Hansard*, can you specifically explain why productivity growth is important and what the drivers of productivity growth are.

Mr Lowe: What the drivers are? That's kind of complex. I can go to why it's important. The only way we can increase real wages and real incomes is to become better and smarter at doing things, to produce more for each hour we go to work. That's how we become wealthier. If, every day we go to work, there's no increase in what we do and how productive we are, then we can't pay ourselves higher real wages, and the value of our assets won't go up, and there'd be more strain on the public balance sheet. Productivity growth is the way we become wealthier, we pay ourselves higher wages and the government has more resources to provide the services we want. It's incredibly important. On what we do about it: we have an organisation called the Productivity Commission, which has written many reports and has many very good ideas. There are a lot of things that could be done. The challenge is doing them. There's no shortage of ideas here. If you're interested, I once again commend those reports to you.

Senator HUME: Can I ask you to confirm for the *Hansard* record the bank's current view of when Australia's inflation will change to band and in what year, and have any upside or downside risks been identified or modelled in scenario analysis that informs that forecast?

Mr Lowe: Our current central forecast is that the headline inflation rate returns to three per cent in mid-2025. That's a bit later than many other countries have inflation returning to target, but we've consciously taken that decision to have a slower glide path back to target. The reason we've done that is we want to do whatever we can to preserve the gains in the labour market we've achieved. Australia has not got to full employment in four decades. We finally got there, courtesy of the policy response during the pandemic by both the government and the Reserve Bank. This is one of the legacies of the pandemic that people don't talk about, and it's a positive legacy. Youth employment is the lowest in decades. People are getting more hours of work. They have opportunity. It's fantastic that people can get jobs. They may not get the job they want, but in Australia today it's easier to get a job than it has been for 50 years. That is fantastic and has great societal benefits.

We want to do what we can to preserve those gains in the labour market. We decided to pursue a course back to three per cent inflation, but that's a fairly balanced course and we don't want to disrupt the labour market more than we can. None of that means we have a tolerance for inflation to stay higher for longer. Mid-2025 is pressing the length of time we can reasonably take. If we take longer than that, people might reasonably say, 'Are you serious about the inflation target?' I want to assure you that we're serious but we also want to do what we can to preserve the gains in the labour market.

You asked about risks. There are many. There's still quite a lot of uncertainty about how household spending is going to evolve; perhaps we'll talk about this later on. There are many cross-cutting forces on household spending at the moment, so there is uncertainty there. We've talked about growth in unit labour costs. There's still quite a lot of uncertainty about how the global economy's going to evolve. While inflation expectations are still well anchored at the moment, we can't take that for granted. There are a lot of risks both to the upside and the downside, but given what we're seeing internationally I think the risks on inflation are more to the upside and we need to be attentive to that.

Senator HUME: Synthesising both those reported comments that you have made and the public comments that you have made over recent months, whether you're talking about productivity or tax or transfers, is it fair to say that the decisions governments make can help or hinder fighting inflation?

Mr Lowe: In principle they can. Without commenting on recent decisions by the government, decisions that are made by the parliament can affect inflation in at least three broad ways. A more restrictive policy stance—let me be clear about that; that involves higher taxes or less government spending—would mean less aggregate demand in the economy and less inflation. The second thing governments can do is structural reform that increases the supply side of the economy so it grows more quickly, so a given level of aggregate demand doesn't put upward pressure on prices—so it can do things on the structural front. The third thing governments can do is intervene in specific markets to reduce price pressures; we saw an example of this recently in the electricity market, where interventions there are reducing inflation by roughly three quarters of a per cent in the next financial year. Measures that influence aggregate demand, structural reform and specific interventions in markets—that's the menu. Which items from that menu that any particular government chooses is up to them.

Senator HUME: Can I ask about the implications of regulation in that shopping list of things the government can do.

Mr Lowe: The regulation in the energy market has had a direct impact on electricity prices over the next year.

Senator O'NEILL: In what way?

Mr Lowe: The energy price gaps in electricity and gas have roughly taken half a per cent off inflation for the next calendar year, and the rebates that have been given through the states will take another quarter of a per cent off. Of course, when the rebates go away, that'll act as an increase to inflation. This year, the combination of those measures is reducing inflation by three-quarters of a percent. Regulation is incredibly important on the structural side of the economy as well. A particular concern we have at the moment is about the housing construction market. The supply side of that market is not flexible—let's put it politely—and it's not flexible largely because of regulation, planning, zoning, developments and charges. So there is a lot of regulation there which is affecting the flexibility of the supply side of the housing market, and the result of that, with strong population growth, is rising housing prices and rising rents. It may not be within the realm of the federal government, but there are certainly things on the regulatory front that could make a difference.

Senator HUME: We heard a lot from Treasury yesterday about automatic stabilisers and monetary policy being the ideal way to address inflation. Will those automatic stabilisers or just monetary policy be sufficient for the inflation reduction task that not just Australia but also, I suppose, the world is facing right now?

Mr Lowe: It will end up working because we will do what's necessary to make it work to get inflation back down. We're strongly committed to doing that, and we'll do whatever is necessary to do it. One could ask whether, from a public policy design view, if that's the best approach. I think that's a legitimate question, and I have to say that I was disappointed that the Reserve Bank review didn't tackle that question. So it's a big question as to what is the best design, from a public policy view, about managing the cycle. The consensus that currently exists, for good reason, is that it's largely up to monetary policy. But, in principle, one could design a different set of arrangements. It'd be challenging but something that, I think, over time we should give thought to because a lot rests on monetary policy. In a perfect world, you'd have a different set of arrangements. But the reason that so much rests on monetary policy is that the previous history of allowing politicians to make these decisions didn't work out that well.

Senator HUME: On monetary policy or fiscal policy?

Mr Lowe: Both—well, interest rates and also fiscal policy. As I said, the other way that you could reduce aggregate demand at the moment is to increase taxes or reduce government spending. That's hard. It's easier for us to increase interest rates. The assignment of responsibility has been such that you give an independent institution that isn't subject to political pressure the responsibility to make those decisions, which are in the long-term interests of the country and which are hard and, I can tell you, very unpopular. You could, in principle, design different governance arrangements, but it's challenging.

Senator HUME: What I'm hearing—and I don't want to verbal you, so please correct me if I'm wrong—is that you agree with economists like Olivier Blanchard, Paul Krugman and plenty of others who say that fiscal policy can play a role and probably should play a role in addressing inflation, particularly given how stubborn it is globally.

Mr Lowe: It could, but it's challenging. The governance of it is challenging.

Senator HUME: The governance?

Mr Lowe: The governance, yes, of using fiscal policy to do what the Reserve Bank board is currently doing is challenging. The alternative would be for a government to say, 'Rather than increase interest rates, we're going to increase taxes.' It's hard, when people are suffering cost-of-living pressures and are under stress, to say, 'We're going to respond to that with an increase in taxes.' That would be challenging for any government, wouldn't it? So the assignment of responsibility is in leaving the job of aggregate demand management to the central bank.

Senator O'NEILL: Is that your suggestion, Senator Hume—to raise taxes?

Senator HUME: I have one final question, Mr Lowe. The Prime Minister recently told the House of Representatives that concerns about inflation were part of a 'scare campaign'. Is that a view that you share?

Mr Lowe: I don't know whose scare campaign this is. We're not engaged in a scare campaign, but what we're trying to do is to remind people of our seriousness in getting inflation back down.

Senator HUME: Why? Can you explain exactly why?

Mr Lowe: It's incredibly important, because, if you think that we're not serious about it and inflation could stay high, and if you're a business, you'd say, 'Well, maybe I'll put up my prices, because inflation's going to be higher, so I may as well get ahead of that.' If you're a worker, you'd say: 'Well, inflation's going to stay high. I'd better get compensation for that, and I'd better get a bigger wage increase.' So, if we've got an inflation mentality, firms are more likely to put their prices up, they're more likely to agree to big wage increases and workers are more likely to see it. If that happens, the inflation becomes entrenched. We know from history that, if inflation becomes entrenched, it's very costly. It will lead to higher interest rates and more unemployment.

I know the higher interest rates at the moment are very unpopular and that they're hurting people. I know it's really tough. But we, in our board discussions, think of the alternative. If we had not increased interest rates broadly, as we have, inflation would be higher for longer, expectations would adjust, it would become entrenched, and the end result would be even higher interest rates, more pain and more unemployment. So what we're doing now is difficult, but it's necessary to avoid more pain and even higher interest rates later on. So it's not a scare campaign, but we do want people to understand that we're serious about this and why we're serious about it.

Senator HUME: So, far from a scare campaign, it's a genuine risk?

Mr Lowe: The world's uncertain, so there are risks in both directions, aren't there? We will do what's necessary to make sure that inflation does not stay too high for too long. We're hoping we can tread this narrow path that I've been talking about where the economy still grows and unemployment rises a bit, but not too much. But, if it's not possible to do that, we will do what's necessary to make sure inflation comes back within the target range in the next few years.

Senator HUME: They're very macro concepts that you're talking about there.

Mr Lowe: They are.

Senator HUME: When the man on the street hears the fact that you are tackling inflation and that you're making that your No. 1 priority and that you have to do that as your No. 1 priority, is your message to them that that's so that they can maintain their standard of living? It's not just unemployment and it's not just inflation—these are conceptual numbers—but it's about the Australian standard of living?

Mr Lowe: Inflation is a conceptual number, but the high price increases at the moment are hurting every single Australian family. 'Conceptual' is how the economists talk about inflation, but what ordinary people talk about is cost-of-living pressures, and every single family is feeling those cost-of-living pressures. That's because, over the last year, the price level went up seven per cent. We've got to stop that. We've got to return the price level increase to the two to three per cent range. If we don't then people will still feel their family budget under stress and the economy won't work well. If the economy doesn't work well, we'll have high inflation that's going to hurt productivity growth. It'll hurt investment and wealth generation, and people will bear a cost to that. I know what we're doing at the moment is painful and it's very difficult for many people, but it's necessary.

Senator HUME: Thank you.

CHAIR: I'll go now to Senator McKim.

Senator McKIM: Thanks everyone. Mr Lowe and Dr Jones, thanks for coming in today. It's been reported in the *AFR* that the RBA has underpaid some of its current and former staff. Is that right?

Mr Lowe: There has been underpayment of people when they've been leaving the bank. When you leave employment, you get paid out your entitlements, and the basis on which we were paying out those entitlements was incorrect. You get paid out for your salary, but there are some additional non-salary benefits. When the calculations were being done, they didn't include the payout of non-salary benefits. So we're in the process of fixing that up now.

Senator McKIM: Have you hired a consultant to help you with that?

Mr Lowe: We have.

Senator McKIM: Who is that?

Mr Lowe: We hired PwC to help us go through that work.

Senator McKIM: PwC! When did you hire PwC?

Mr Lowe: I can't remember the exact month, but it would have been sometime late last year. This is a process we've been going through for some months.

Senator McKIM: So it was before the current scandal broke publicly?

Mr Lowe: It was, yes.

Senator McKIM: Obviously, there has been a lot of discussion about PwC. What steps has the RBA taken to ensure that PwC only has access to what it needs to deliver on its contract and to assure yourselves that PwC isn't going to attempt to monetise any information that it gets from the RBA during its fulfilment of this contract?

Mr Lowe: We're as appalled as you are. The use of private information of this sort for commercial gain is wrong. It destroys trust. As you know, it's unacceptable. From our perspective, and I think yours as well, it should come with very serious consequences for those who did the wrong thing.

At the moment, we have one ongoing consulting services agreement with PwC for audit risk management services. We're continuing to use them for that purpose because the cost of having to change isn't worth the benefit we would get from that. And, as you indicated with the first question, we've had this help with an employment issue as well.

Over the last four to five years, spending with PwC has ranged between \$100,000 and \$800,000 or \$900,000 a year, so that's the order of spend. PwC are going to continue to provide services under this current audit contract because it doesn't make sense to change, but we've taken the decision to enter no new contracts with PwC until a satisfactory response has been forthcoming, and a satisfactory response includes both complete transparency and accountability for those involved. We will not be seeking further services until that happens.

Senator McKIM: I want to come to your audit and risk management contract with PwC in a minute. But, just on the contract that you've got with them to assist you with your underpayment of staff, what is the value of that contract?

Mr Lowe: I don't have the exact figure before me, but, from recollection, it was \$300,000 or \$400,000.

Senator McKIM: And do you have an estimate of the total amount that staff were underpaid?

Mr Lowe: We're still working through that, so I can provide that on notice. We're about to make a public disclosure of that because we have responsibilities to do that and we're fully committed to meeting those responsibilities, but I'm not yet in a position to give you the exact figure.

Senator McKIM: Do you have an estimate, Dr Lowe? Do you know roughly how much it was in total?

Mr Lowe: If it's okay, I'd rather answer that question in writing because we're under some disclosure obligations here, and I don't want to do the wrong thing. For some people it's as much as 50c, and for other people it's a few thousand dollars. You can work out the averages there.

Senator McKIM: I can't—

Mr Lowe: There are probably 1,000 people all up who have left the bank over the years who will get back payments.

Senator McKIM: It sounds like you might be paying PricewaterhouseCoopers more than the size of the problem to start with?

Mr Lowe: No, it's more than—

Senator McKIM: It's more than the contract?

Mr Lowe: I can assure you, it's multiples of what we're paying PwC. And we'll make full disclosure of that, I think, in the next month or so.

Senator McKIM: You've said that you've made a decision not to enter into future contracts with PwC until there's—I think the words you used were 'satisfactory resolution'. Just to be clear: as of today, it's your view that a satisfactory resolution has yet to be reached?

Mr Lowe: That would be my view, yes. We require complete transparency—not yet achieved. And we require complete accountability—not yet achieved.

Senator McKIM: On your contract with PwC for audit and risk management, did you refer to the value of that contract? Is that the one you said was \$800,000 or \$900,000?

Mr Lowe: No, this year, the total spend across all the—

Senator McKIM: What's the value of the audit and risk management?

Mr Lowe: Roughly \$400,000.

Senator McKIM: What's the period of that contract?

Mr Lowe: My recollection is that we signed a two- or three-year services agreement. We have an internal audit function, but occasionally we need specialist skills, and we go to firms to do that. We're currently in a process with PwC procuring specialist skills under this master agreement.

Senator McKIM: The Department of Finance's guide on the role of audit committees says the provider of internal audits 'should have unobstructed access to the accountable authority'. Does PwC have unobstructed access to the RBA, as per that guidance note?

Mr Lowe: We procure their services to do particular audits, so they have whatever access they need to do those audits.

Senator McKIM: Do they have unobstructed access to the RBA, as per the Department of Finance's guidance note?

Mr Lowe: I don't exactly know what that means. An auditor needs access to the information they need to perform the audit, but they don't have further access. So they don't have access to the monetary policy process if they're doing an audit of IT administration rights.

Senator McKIM: What's the scope of their audit function? I'll be frank with you here. What we know is that the RBA monetise—I view this as corruption.

CHAIR: PwC.

Senator O'NEILL: PwC, not the RBA.

Senator McKIM: Sorry, not you. Thank you, Senator O'Neill.

Mr Lowe: Thank you for clarifying.

Senator O'NEILL: That's alright. I made the mistake. The alphabet gets in our brains.

Senator McKIM: I do regard PwC as having acted corruptly. They basically stole confidential government information from Treasury and they monetised it to their clients in a conspiracy to defraud the Commonwealth. That's what we're dealing with here. Now we understand that they have an ongoing audit role with the RBA. It's fair to say—it's not stretching the bounds of credibility to make the statement—that within the RBA there would be extremely sensitive deliberations that would, could, lead to a market advantage for people who are prepared to act unethically and monetise that information. So I do think it's a reasonable question to ask. What is the scope of PwC's access to internal data within the RBA, and what steps have you taken to assure yourselves that PwC aren't running the same scam on the RBA as we now know they ran on Treasury?

Mr Lowe: I'm a hundred per cent confident they don't have access to any of the monetary policy processes or data. That's not part of their commission. Things like, for example, auditing administrator rights in a computer system or some technical—

Senator McKIM: They're auditing the RBA.

Mr Lowe: But they don't have access. When you're an auditor, you have limited access to the information that's required to do the audit.

Senator McKIM: In fact, the Department of Finance says they should have 'unobstructed access' to the organisation. What I'd just like you to do, please, is take on notice—

Senator O'NEILL: Can I just suggest, Senator McKim, that you're verballing Mr Lowe. With respect, unobstructed access to the information that is required to do the job is what Mr Lowe is saying, not unobstructed access to everything at the RBA.

Mr Lowe: Yes.

Senator McKIM: I don't want to get into a debate with you. I'm not verballing Mr Lowe, because I'm actually quoting from the Department of Finance guidance note. I'm not quoting Mr Lowe.

Senator O'NEILL: Yes—unobstructed access to do what they need to do, to do the job.

Senator McKIM: What I'd like you to do, Mr Lowe, please, is agree to take on notice to provide to this committee the scope of the audit that you have engaged PwC to do; exactly what kind of data—I'm not after the data itself—PwC has access to in order to fulfil the contract that you have with them; and, thirdly, what steps you and the board have taken to assure yourselves that PwC can't run the same scam on the RBA as they did on Treasury.

Mr Lowe: Yes. I'm more than happy to do that. It's eminently reasonable. I want to assure you that they do not have access to the kind and type of material that you're worried about. It's very specific, and they have access to the systems and processes they need to audit very specific systems. We're very careful about that. We'll provide more details in writing for you.

CHAIR: Senator McKim, does that conclude a block? Because I will be coming back to you.

Senator McKIM: Yes. Thank you.

CHAIR: Senator Hume.

Senator HUME: Turning to that RBA review and particularly recommendation 3, which is 'to promote a better understanding of the relative roles of fiscal and monetary policy'. Recommendation 3.1 of the review says:

The *Statement on the Conduct of Monetary Policy* should acknowledge the importance of both monetary policy and fiscal policy for macroeconomic outcomes. The ... Treasury ... and the RBA should commit to:

... identify how the RBA's monetary policy framework and the Government's fiscal approach can together best support good economic outcomes and acknowledge that fiscal policy may have a larger role in some circumstances ...

That's on page 18. Do you have a view on that recommendation?

Mr Lowe: I think that's eminently sensible. Referring back to the discussion we had before, there is a role for both fiscal and monetary policy managing the cycle, and, where we can, we should be coordinating. I'm very supportive of the idea of codifying that to the extent we can through the Statement on the Conduct of Monetary Policy.

Senator HUME: I think that that recommendation and indeed all of the recommendations of the review have been adopted by government and, in principle, by the opposition. Do you have any comments regarding how the RBA's monetary and fiscal policies are interacting now?

Mr Lowe: No. We went through that before, at least at the in-principle level. In the most recent budget, I was pleased that the government saved most of the upgrade in revenue, and the electricity price package is helping with inflation as well. That's important because, if it knocks three-quarters of a percentage point off inflation over the next financial year, that helps lower the headline inflation rate and helps contain inflation expectations, which we were talking about before. So that's helpful. Whether the government could be doing more to manage aggregate demand or affect the supply side of the economy, I'll leave it to others to opine on, but the budget didn't change our outlook for interest rates. We incorporated the broad parameters of the budget into our forecasts. We've got good liaison through both the Treasury secretary and the Treasurer and we understood the parameters of the budget, so it hasn't affected our outlook for the economy or for interest rates.

Senator HUME: That recommendation specifically asks you to not leave the commentary to others on what the effects of the fiscal strategy are on aggregate demand. In your opinion, is the most recent budget expansionary, contractionary or neutral?

Mr Lowe: It hasn't changed our outlook. I don't know what label you want to apply to it. I think it really depends upon your perspective. In one sense, allowing the automatic stabilisers to work—bracket creep in particular—is a contractionary action. It's not a discretionary contractionary action, but it is contractionary. But there was additional spending in the budget, and that's at the margin expansionary. So it depends upon your perspective. We've got to keep this in perspective, though: the Australian economy is over \$2 trillion in a given year—\$2 trillion. That's a lot. The extra spending from the government this year is \$3 billion or \$4 billion, in a \$2 trillion economy. That doesn't shift the needle in terms of macroeconomic outcomes. It might be important in helping some groups, but it doesn't shift the needle in terms of macroeconomic outcomes. It's not something that's shifted the dial for us at all.

Senator HUME: Can I be very clear that monetary policy is contractionary at the moment.

Mr Lowe: It is.

Senator HUME: But you're saying that this budget isn't contractionary?

Mr Lowe: I'd say it's broadly neutral. You've got the discretionary decisions, which are kind of mildly expansionary and then you've got allowing the automatic stabilisers to work, which is mildly contractionary. Labels are kind of dangerous, but I would say it's broadly neutral and monetary policy is contractionary.

Senator HUME: I note that the review states:

In the most recent fiscal strategy—
the October budget—

the Government indicated that full employment is one of the objectives of fiscal policy, as well as inclusive and sustainable growth. The strategy also acknowledges an immediate priority of not adding to inflationary pressures, at a time of high inflation. The Review supports these inclusions in the strategy.

That's the RBA review, page 100. That immediate priority of not adding to inflationary pressures was removed from the fiscal strategy in the May budget. Do you have a comment on that?

Mr Lowe: I'm not close enough to all those details, but the budget, largely through the electricity price package, is taking pressure off inflation, and that's a first-order effect.

Senator HUME: You said that was half a per cent and a quarter of a per cent temporarily?

Mr Lowe: It's half a per cent in the financial year 2024—that's from the price caps—and then there's another quarter of a per cent from the rebates. Remember, the state governments are giving, with the assistance of the federal government, rebates to some people, and that will knock another quarter of a per cent off inflation.

Senator HUME: So, all other things being equal, you're saying that inflation would be down to 6.25 per cent temporarily, and then back up to 6.5.

Mr Lowe: If those electricity price interventions had not taken place, then our forecast for inflation to the year mid-2024 would have been three-quarters of a per cent higher.

Senator HUME: And inflation with a seven in front of it is nowhere near. It's hardly making a dent, is it?

Mr Lowe: Our current forecast for June 2024 is that headline inflation will be 3.6 per cent. Without those interventions—

Senator HUME: In 12 months.

Mr Lowe: it would be over four.

Senator HUME: Do you believe that not adding to inflation is still something that fiscal policy should be prioritising today?

Mr Lowe: Given my job is to get inflation down, that would be helpful. I don't think that the budget is adding to inflation; it's actually reducing inflation in the next financial year.

Senator HUME: Neutral.

Mr Lowe: The question is: could it do more? Different people have different views on that, but the electricity price intervention and [inaudible] upgrades of the revenue, I think, are helpful.

Senator HUME: Can I ask about what the RBA is picking up at the moment about financial hardship data, particularly when it comes to servicing mortgages? Is it tracking better or worse than you expected at this point of the tightening cycle?

Mr Lowe: It's tracking broadly as we expected. I'll ask Brad, because his staff have been monitoring these data very carefully.

Dr Jones: I would say the transmission is working broadly, as we would typically expect. There are some modest differences just because the preponderance of fixed rate mortgages this cycle has sort of slowed down, a little bit, the transmission of monetary policy. What we're observing is broadly in line with how we think monetary policy works, and part of the transmission channel is through what we call the cashflow effect. That's working, as I said, with a little bit of a lag compared to past cycles, but the direction of travel is entirely consistent with what we expected.

Probably the key feature at the moment is the very uneven experience for borrowers. For instance, when we look at borrowers who come from the lowest income quartile, almost half of those borrowers are now having to devote around a third of their incomes to mortgage payments. If we look at the upper quartile of income distribution, that number is something like five per cent. So the experience is being felt very unevenly across the community. That's something we're very aware of and very conscious of. We monitor a range of data to that effect.

Mr Lowe: This unevenness is a really important point. We have data from the banks where they can track spending through transaction accounts of their customers, and they say they see very different patterns. If you are a low-income earner who is renting or someone who has borrowed in recent years, your spending is slowing a lot

more than if you are an owner-occupier who's got to pay down your debt. So it's a very uneven picture at the moment, and we see that in all the data we look at.

Senator HUME: Of course, the irony there is that inflation also disproportionately affects those on lower incomes just as higher interest rates do—is that correct?

Mr Lowe: Well, we've looked at the inflation rate experience by spending patterns, and it's pretty much the same no matter what your spending pattern is.

Senator HUME: So inflation affects everybody across the board.

Mr Lowe: It affects everyone, but, if you've got a smaller buffer and are on a lower income and have a smaller margin for cash, then obviously it's much more painful than if you're a wealthy person with a lot of money in the bank. Everybody is being hurt by the fact that prices went up seven per cent last year, but it particularly hurts low-income people.

This was one of the other points I was keen to make: inflation is regressive. It hurts low-income people the most. This underlies our commitment to get it down. Some people say, 'Don't increase interest rates, because it's hurting', but, if that were our approach, inflation would stay higher for longer, it would mean higher interest rates and fewer jobs, and it would hurt lower-income people the most. So we've got to do what we've got to do to make sure prices are not rising at seven per cent a year, because it hurts everyone.

Senator HUME: Deloitte Access Economics forecast that approximately 300,000 Australians are currently experiencing negative cash flow. Is that also aligned with the statistics that you're seeing coming out of the banks and your own work?

Mr Lowe: I don't know—Brad, you can talk about how those calculations are done.

Dr Jones: I think everyone who's looking at these different data sources arrives at slightly different numbers. What I can tell you is that our team have done a lot of modelling to try and get a handle on the share of borrowers that are or could be, in the next little while, experiencing negative cash flows. On our analysis, it's something in the order of about 15 per cent of Australian variable-rate owner-occupier-borrowers by the end of this year that are likely to be experiencing a situation where they've got what we'd call a negative income surplus or basically a negative spare cash flow, unless they make adjustments like cutting back on some of their discretionary consumption or working more hours. If they just held everything constant, about 15 per cent of variable-rate owner-occupier-borrowers by the end of this year would likely have negative cash flows. But that presumes they don't make any adjustments to their living circumstances. I think experience would tell us that they will make some adjustments. Principally, they'll pull back on consumption, and that's why, if you look at our forecasts, our forecasts embed a projection of quite subdued consumption growth in the period ahead.

Senator HUME: And those forecasts would be based on current interest rates and current levels of inflation. I'm assuming you do sensitivity analysis on that too. Have you done sensitivity analysis to see how many more people might fall into that net should interest rates be forced to go up again?

Dr Jones: We have. Those numbers that I just spoke to are based on our projections for wages and inflation out to the end of the year and the market implied cash rate out to the end of the year. To answer your question, yes, we do do that sensitivity analysis. It changes the picture a bit if you put through slightly higher-interest cash rate assumptions. It doesn't change it wildly, though, for the sorts of interest rate profiles that most in the markets would think are plausible over the next year or so.

Senator HUME: What are the big risks that you can see that might cause that situation to worsen. Let's put another rise in interest rates aside; what you said is that, all other things remaining equal, those are the statistics you see. What are the other risks that might affect that?

Dr Jones: Clearly, inflation. As the governor just spoke to, we know that inflation is a very regressive tax. It hurts those on lower incomes the most. If inflation were to increase further or at a faster rate than our forecasts, that is going to eat into the spare cash flows of Australian borrowers and Australian households more generally.

Mr Lowe: The other issue is if people lose their jobs. Most people will continue to service their mortgage if they've got a job. It might be difficult; they'll have to cut back on lots of other areas and maybe work a few extra hours if they can. But, if you lose your job, you can't do those things. So keeping people in employment is the critical thing. This is one reason why we're adopting this balanced approach, back to two to three per cent inflation—we want to keep people in jobs as best we can. But that requires inflation expectations to remain well anchored and growth and unit labour costs to be consistent with inflation, as we've talked about before.

Senator HUME: Did you say growth and unit labour costs?

Mr Lowe: Yes, they should be consistent with inflation. It requires inflation expectations to remain well anchored.

Senator HUME: Thank you, Chair.

CHAIR: Senator O'Neill?

Senator O'NEILL: Thank you very much, Mr Lowe and Mr Jones, for being here today. I have just a couple of quick lines of questioning. First of all, I concur with your very strong statements with regard to PwC. This committee was instrumental in getting on the record those shameful emails, all 144 pages of them.

Mr Lowe: Thank you for doing that. I think you've done the country a service in doing that, and, as I said in response to Senator McKim's question, it's appalling—disgraceful.

Senator O'NEILL: It's a privilege to serve your country as a public servant and here as senators. We do need to hold this particular company to account. You indicated that you will continue with some contracts for the moment but that you would seek complete transparency and a satisfactory resolution, with complete accountability not yet achieved. I hope I've got your words correct there.

Mr Lowe: Yes, that's right. We want transparency and accountability. Your committee is still looking at that. My judgement is that the response so far does not meet those standards.

Senator O'NEILL: I have to concur. Do you have a view, in this circumstance, about what transparency and accountability might look like to assuage your concerns—and those of the rest of the nation, I expect.

Mr Lowe: I'm not close enough to the details to be specific, but what we want to see is anyone who knew what was going on and was complicit in what was going on to be identified so that we will know which partners were involved in that process and did not meet the standards that we would all expect them to meet. We need transparency around that, and then we need accountability for those individuals. I don't want to be specific about what accountability means, but we need transparency and accountability.

Senator O'NEILL: If I can flesh that out: there has been, to date, no reveal by PwC Australia or PwC global of anybody involved in those emails. They've been requested by the government currently for their assurance about people being stood aside who are currently with PwC, but the reality is that you might have somebody on your staff, or they might members of staff among some of the most significant bodies in the country, who were amongst those 53 people in those emails. At the moment you and I have no way of knowing who that is. Is that a fair assessment of where we are at the moment?

Mr Lowe: I think it's unlikely we have people on our staff who are involved in that, just because we don't hire at the department level. But we all need to know, because these companies are supposed to provide a level of assurance to us all. We have them help with audit and with risk management. We get advice on integrity and processes from them. If we're taking advice on integrity and processes and audit from people, we want to know that they meet the standards in their commercial behaviour that we would expect to meet in our institution. If they don't do that, then we don't want to work with them. If they can demonstrate that the individuals supporting us meet the high standards that we expect, then we're very happy to work with them, because these companies do have a lot of expertise and over time they've given a lot of value to us. I think that's important. But we want to know that the people who are delivering value to us ascribe to the same high standards that we do as an organisation in our behaviour.

Senator O'NEILL: Yesterday we heard of the difficulty that the Australian Taxation Office had because of the use—I would say abuse—of the concept of legal professional privilege that prevented them from accessing information that they needed. That's hardly transparent. For me that compares with the current leadership of PwC Australia and PwC global continuing to throw a veil of secrecy and cover-up over what is now known by the public to have occurred, yet they continue to fail to reveal the names. Does that give you cause for concern about the state of PwC in Australia at the moment?

Mr Lowe: I don't want to opine on that. All I want to say is they need to provide the transparency if they are to rebuild trust. Trust is the cornerstone of their profession because they're providing assurance to us.

Senator O'NEILL: Agreed.

Mr Lowe: If they can't be trusted, how can you ask them to provide assurance to us and advice to us? So they've got to rebuild trust.

Senator O'NEILL: Exactly.

Mr Lowe: How they do that is challenging.

Senator O'NEILL: It's another big question. I have one further line of questions. I'm so proud to be Australian. I think the Australian character is very stoic in the face of adversity. We saw people rise to the challenge through many crises that we faced over the course of time. At the moment, people are facing considerable pain in trying to manage their mortgages. Australians want to know that what they're going through has a good outcome. Today, Mr Lowe, I hear a difference in your description of where we are on the journey back from the high inflation that you are responding to with monetary policy to put downward pressure on inflation. Just to be clear: you've indicated that the economy, which is worth \$2 trillion, is now not being affected in a negative way by the government's \$3 billion to \$4 billion of investment. You said it doesn't shift the needle.

Mr Lowe: It's important in some parts of the economy, but it doesn't shift the macroeconomic needle, which is what we're responsible for.

Senator O'NEILL: So the monetary policy that you're applying together with the fiscal responsibility of government, what's that doing to our economy that should give hope to Australian people post the budget?

Mr Lowe: The strategy's working. Inflation is coming down and the most recently published forecasts by both the Reserve Bank and the government have inflation coming back to three per cent by mid-2025 and the unemployment rate rising, but staying below where it was before the pandemic. And that's at the current level of interest rates. Those forecasts are prepared on interest rates staying where they are for some time. That's the narrow path we're trying to tread and, as I see things at the moment, we're still on that path. So it's working and it's painful, but there are risks here that I have been drawing attention to today and in other comments. Success is not guaranteed here. Quite a few things have to go right for us to tread this narrow path, and I think we can do it. But some things need to go right and it's going to be painful for a while yet.

Senator O'NEILL: You spoke in response to Senator Hume's questions about the contractionary impact on inflation of the government's intervention in the market with regard to energy. You said that was one of three possible things that the government could do to take the pressure out. You said there could be higher taxes and less spending, an increase in supply or intervening in specific markets.

Mr Lowe: Yes.

Senator O'NEILL: Why has it been so important, the intervention into the energy market?

Mr Lowe: Sorry, why has?

Senator O'NEILL: Why has it been so important that the government intervene in the market with regard to energy so as to move us away from the pain that people are experiencing?

Mr Lowe: Well, the high energy prices were really hurting people, weren't they? They were pushing up inflation. And the longer inflation stays high, the greater is the chance that expectations of future inflation will adjust. And if they adjust, as I talked about before, inflation will become entrenched, and it will become very painful. So the fact that, through one specific policy, the government is able to take three-quarters of a per cent off an annual inflation rate is really important. Not only does it help people with their own finances, but it lowers the headline rate of inflation and lowers the risk that inflation expectations will pick up, so it has this second-round benefit as well. That intervention—and I don't want to comment on the effect of the intervention on investment in gas—at least from my perspective of controlling inflation, is clearly helpful and welcome.

Senator O'NEILL: For large numbers of Australian people right across each state and territory?

Mr Lowe: Basically everybody.

Senator O'NEILL: You used the term 'glide pattern'. You made it very clear, Mr Lowe, that you want to make sure that Australians who've got jobs, perhaps for the first time—you said the best conditions for employment in 50 years—stay in those jobs and that we would 'glide', with some care, to the target band of inflation, which you said was two to three per cent?

Mr Lowe: Yes.

Senator O'NEILL: Here we are, approaching the winter season with a chill and all the concerns that we have, but there's hope on the horizon for next June. What do you expect the situation to be by June next year, in terms of inflation?

Mr Lowe: By June next year we're expecting inflation to be back to roughly 3½ per cent and we're expecting the unemployment rate to be just a touch over four per cent.

Senator O'NEILL: Okay. And your expectation—

Mr Lowe: Which still, in historical—

Senator O'NEILL: is more than a wish. You're basing this on a few things. One of them would be the impact of the government's budget, I'm sure.

Mr Lowe: And our increases in interest rates.

Senator O'NEILL: So those two things?

Mr Lowe: Given the budget and monetary policy, the current setting of monetary policy, the forecast—and there are a lot of caveats around the forecast, as you know—is that we get back to 3½ per cent by mid next year. Unemployment will be a bit over four per cent, and the wage price index will be rising at close to four. And that's working. It's painful, but it's—

Senator O'NEILL: We're doing it tough, but the government's managing this through the budget and you're doing this through your interest rate management to get us into this better place by June next year.

Mr Lowe: That's our ambition and our hope and also our expectation, but a lot of things have to go right. The world is inherently uncertain and success here is not yet assured. We could get knocked off this path through a whole bunch of developments, including what happens in the global economy.

Senator O'NEILL: So, we've got to hold on tight, but we're heading in the right direction?

Mr Lowe: We are heading in the right direction. I know it's painful for people, but there is hope.

Senator O'NEILL: Okay. My next question goes to a comment that you made, which I thought was pretty important. You said, 'The budget is reducing inflation in the coming year,' and part of the equation was the savings in the budget. Could you speak to that, Mr Lowe? That's a decision of the Treasurer to bank savings. Why is that an important thing that Australians understand is helping us get to where we need to be with our mortgages by next year?

Mr Lowe: The increase in interest rates that we've delivered is designed to slow growth in aggregate demand. That's how inflation comes down, partly. The other thing that influences aggregate demand is government spending. The government has had a very big increase in revenue, both from what's happened with commodity prices and with fiscal drag as inflation has pushed people up into higher tax brackets. The government has got a lot of extra revenue, it's improved our public finances—that's fantastic. It could have elected to use this revenue to increase spending.

Senator O'NEILL: But it didn't do that.

Mr Lowe: It didn't. If it had, that would have run counter to our desire to reduce spending to get inflation down. The fact that it did not recycle that money back into the economy, it's basically taken out and they'd have to borrow less as a result, that it's withdrawing stimulus that otherwise could have been injected means that's helpful. If that money had been recycled back into the economy, we would be facing higher interest rates.

Senator O'NEILL: So it's fair to say we had very responsible action by the government with the savings being put back into the accounts so that we're in a relatively good position? What's the flow-on effect of doing so, Mr Lowe? Apart from its de-inflationary impact, which I think you've described it as, what else does it do for the country when we put our perhaps sometimes unexpected benefits of the economy going so well, in parts, back into the accounts?

Mr Lowe: We talked about the effect on aggregate demand. The counterfactual would be that aggregate demand would grow too quickly and we'd have to have higher interest rates. But it's also important, from a medium-term perspective—actually, this may be the critical issue—that, as a country, we face a medium-term budget issue. We've got a structural budget deficit. From my perspective, it would have been the wrong thing to do to use a temporary boost to national income to recycle that back into the economy with permanent extra spending. That hasn't happened, so from a medium-term perspective it's helped to restore the integrity of public finance, because it would have been the wrong thing to do to recycle temporary income into permanent spending. That's important. Australia has long had responsible fiscal policy and sound public finances, and that gives us options in downturns. Because there will be another downturn at some point in time, and we'll want the government to help out. If you've got a strong underlying budget position, you're in a better position to help out.

Senator O'NEILL: So we're on a path to that as well?

CHAIR: Thank you, Senator O'Neill.

Mr Lowe: There's work to be done here, let's say. We're not—

Senator O'NEILL: We're not there yet.

Mr Lowe: I think there's further work to be done in improving public finances in the country, but we didn't make them worse—and maybe, at the margin, we've made them better.

Senator O'NEILL: Thank you very much, Mr Lowe.

Senator DEAN SMITH: Welcome, Governor and Dr Jones, and thanks very much for your appearance this morning. What I am hearing you say, Governor, is that vigilance is still required.

Mr Lowe: Indeed.

Senator DEAN SMITH: I want to turn to the matter of rents and stronger expectations of rental increases across Australia. In your monetary statement of May, at page 69, you make the point that any inflation improvements could be offset 'by a stronger outlook for rent inflation, reflecting the strength in recent data and the upward revisions to the population growth estimate'. For the committee, could you just give us an understanding of how you see the current rental issue, what proportion of the future inflation challenge do you think rents will make up, and any observations you might make.

Mr Lowe: It is a very significant issue because rent is the single largest component in the CPI, so what happens there is very important. We are expecting growth in rents, as measured in the CPI, to be close to 10 per cent. It is very tough. Some people are experiencing bigger increases in rents than that, so it is really hurting some people. The underlying issue here is supply and demand in the rental market. The vacancy rates in many cities are very low. I was in Perth earlier in the month and there it is almost impossible to find something. The rental vacancy rate is the lowest it has ever been. There are a few things that have contributed to that.

During the pandemic, the average number of people living in each household declined. People wanted more space. They were working from home. Rents actually declined for a while. People said, 'Rather than have a flatmate I will just have an office at home,' so the average number of people living in each dwelling declined and that increased the demand as a result for the total number of dwellings. That has been going on. The other thing that is now happening is a big increase in population. The population is increasing by two per cent this year. Are there two per cent more houses? No. The rate of addition to the housing stock is very low. We have a lot of people coming into the country.

Senator DEAN SMITH: And a lot of people coming into the country very quickly.

Mr Lowe: People want to live alone or move out of home and it doesn't work. The way this ends up fixing itself, unfortunately, is through higher housing prices and higher rents. As rents go up, people decide not to move out of home or don't have that home office; they might get a flatmate.

Senator DEAN SMITH: Which is a fix that people can only expect to happen over the medium to longer term. It is not a fix that will happen immediately.

Mr Lowe: The increase in supply can't happen immediately, but the higher prices do lead people to economise on housing, don't they? Kids don't move out of home because the rent is too expensive or they decide to get a flatmate or a housemate. That is the price mechanism at work. We need more people on average to live in each dwelling, and prices do that.

Senator DEAN SMITH: In evidence last night, these questions were also put to Treasury officials. Did you have a chance to see the Treasury presentation last night?

Mr Lowe: No, I didn't.

Senator DEAN SMITH: I don't want to misrepresent the Treasury.

Senator O'NEILL: We are compelled to pay attention, Senator Smith.

Senator DEAN SMITH: I don't want to misrepresent Treasury but I think in the discussion there was a suggestion from Treasury that the rate of growth in rents had peaked or was about to peak. Is that your expectation?

Mr Lowe: I hope that is true.

Senator DEAN SMITH: Hope is not word we attached to the work of the government.

Mr Lowe: I think we're going to see a further pick up, because the rental markets are so tight and population growth is so strong. Rent growth is going to stay high for quite a time.

Senator DEAN SMITH: That is an ominous sign.

Mr Lowe: But the underlying problem is supply. It is a supply problem.

Senator DEAN SMITH: I want to turn to the matter of inflation expectations, which, again, the statement of monetary policy talked about. In a statement of monetary policy on page 63, it said, 'The share of households that expect inflation to be above six per cent over the coming year remains considerably higher than prior to the pick-up in inflation in mid-2021.' I want to better understand the present and possible risk that inflationary expectations do start to crystallise in people's minds. Particularly if people are seeing significant increases in rents both from

their own perspective but perhaps from their children or from other family members' perspectives then it is very possible, easy to imagine, that inflationary expectations which are already higher comparatively start to set in. So is managing the inflationary expectation a significant risk and concern for the bank?

Mr Lowe: It certainly is. Financial markets expect inflation will return to the two to three per cent per cent range broadly over the time frame that we are expecting. So people who are buying securities in financial markets understand that is our objective and they are confident we will deliver that. Households are less confident, and you can understand why, because rents are going up, electricity prices are going up a lot and food prices are still going up. Households and businesses are less confident that we will be successful and that has been a consideration in our recent decisions and communication. The increase in interest rates in May, after the pause, there is a whole bunch of reasons why we did that, but one of them was to reinforce the idea in the community's mind that we are serious about this, that we will do what is necessary to get inflation to come down. I am hopeful that over the coming months and quarters we will see the headline inflation rate come down and then people will be able to see inflation has peaked, it is coming down and, say, by mid next year it will be back down. We really want people to understand that we are serious about this, that we will do what is necessary, not to question our commitment to getting inflation back down, as painful as that is. We have work to do there.

Senator DEAN SMITH: There was some media commentary earlier in the week about external experts on the proposed monetary policy committee being able to participate in the decision-making and voting on the decisions. If my understanding is correct, those external experts would outnumber central bank officials. I was wondering if you had a view about that—what benefits or risks that might present.

Mr Lowe: That is no change from the past 60 years. The current Reserve Bank board constitutes the governor, the deputy governor, the Treasury secretary and six outside experts appointed by the government of the day for a five-year term. That is what we have had for 60 years. At each of the board meetings, the board members effectively vote. They kind of say what they would rather do. One of my frustrations with the Reserve Bank review was that it created an impression that at the meetings I come in with my recommendation, my models and all my data and say, 'This is what we should do; I hope you agree. Let's go to lunch.' That is the impression some people have drawn from the review. That is not how it works at all.

At the board meetings, there is extensive discussion, dialogue, contrary points of view. We talk around the issues for a long, long time. There is active debate and engagement. That is how it has been at least while I've been the governor and previously. The new model really has the governor, deputy governor, Treasury secretary and six outside people appointed by the government of the day, so that is fundamentally no different to what we've got now. The issue is the nature of the people who governments appoint to the board. That is a matter for the government of the day. My view is that we have been very well served by having people from diverse range of backgrounds. I don't support the idea of the monetary policy board being made up of primarily economists. We have enough economists at the bank. What I really value is people who have expertise in running private businesses, who understand the labour market and who also have some kind of context about making policy under uncertainty. I think it would be a backward step to appoint to the monetary policy board only economists. I would like to see—

Senator DEAN SMITH: It's too narrow a definition of expert.

Mr Lowe: I view the people that we have on the board at the moment as experts. They're not experts in monetary theory. That's true. They don't all have PhDs in economics. But they're experts in understanding business, labour, uncertainty, public-policy making, independence and doing the right thing for the country as a whole. They're the types of people on the board now, and it's really up to the government of the day whether they continue to broadly appoint those types of people. The current government just appointed two people a few weeks ago who meet those criteria as well. Neither of them is an expert in monetary theory, but I know they're going to bring a great deal of expertise to the bank and a balance to our hundreds of economists. I hope that continues, but it will be up to the government.

Senator DEAN SMITH: I'm just quickly doing a time check. I'm hoping I've still got five minutes left.

CHAIR: You've got two.

Senator DEAN SMITH: Where to start? If time allows, in a second set of questions, I want to come back to your comments about the cross-cutting forces of household spending. I think that's how you referred to it in your earlier evidence. I want to have a brief discussion about your recent RBA meeting in Perth. Finally, you've made some complimentary remarks about the Productivity Commission and its work over a number of years. I and other Senators would support that observation wholeheartedly. In the most recent five-year review, are there particular areas of reform that you have seen that deserve priority, and immediate attention and action?

Mr Lowe: I don't want to single out any specific one, because there's no silver bullet kind of thing that we can do here. It's commitment and a mindset to do everything we can, even if they're small things. I think we've got to have the mindset to do lots of small things. That will add up. But if we say, 'Each of these things is small, so we won't do them,' then we'll be stuck with no productivity growth. There's no big thing to do, but there are lots of small things to be done.

Senator DEAN SMITH: We should sweat the small stuff.

Mr Lowe: Do the small stuff and do it well, and we'll be better off as a result.

CHAIR: That concludes your block. Thank you, Senator Smith. There may be time. Senator McKim.

Senator McKIM: Dr Lowe, you've spoken a little bit about rents just in the recent exchanges. Can I be clear about what you're advising the committee: you support the contention that increases in rents are putting upward pressure on inflation. Is that correct?

Mr Lowe: It's contributing, yes, and it will for a while.

Senator McKIM: Your most recent statement on monetary policy says:

... demand to purchase new detached housing remained exceptionally weak in early 2023. This reflects a range of factors, including higher costs of land and construction, falling established home prices ... and poor buyer sentiment ...

Would you accept the contention that interest rate increases from the RBA are playing a role in all of those factors—higher costs of land and construction, falling established home prices and poor buyer sentiment?

Mr Lowe: I think higher interest rates reduce the demand for new construction for a period of time—that's true—but I'm hesitant for you to draw the conclusion that that's the main thing going on.

Senator McKIM: No, but they play a role.

Mr Lowe: It's a factor, but the main thing is the inflexibility on the supply side of the housing market.

Senator McKIM: I'm simply asking for your agreement to the potential that they play a role.

Mr Lowe: It's a factor. That's one of the transmission mechanisms of monetary policy. That's true.

Senator McKIM: So higher rents equal higher inflation equals higher interest rates equal higher rents. There's a hole in the bucket, isn't there, dear Dr Lowe?

Mr Lowe: There is, because higher interest rates mean weaker growth in aggregate demand, lower incomes and less capacity to pay. So it affects the demand side as well.

Senator McKIM: The point I'm making is it's a vicious cycle for renters, isn't it, Dr Lowe? You've got higher rents, which lead to higher inflation, which leads to the RBA putting up interest rates, which leads to higher rents. It's the people who are renting who are paying an exorbitant price at the moment for that vicious cycle.

Mr Lowe: The cycle doesn't work like that, because higher interest rates are contributing a bit to higher rents, but they're not the main factor. We're not then responding with interest rates to the higher rents again.

Senator McKIM: No, you are responding to higher inflation by putting up interest rates, which is then, as you have just agreed, putting upward pressure on rents, which is putting upward pressure on inflation. I'm not suggesting these are the only elements, but that is a cycle that exists, does it not?

Mr Lowe: There is an element there. The solution to it isn't lower interest rates, because that would have other consequences that we have talked about. The solution to all of these problems in the housing market is supply, supply, supply.

Senator McKIM: In fact, there are other things—

Senator O'NEILL: We need to invest in housing.

Senator McKIM: Yes, it would be nice if Labor actually put forward a package that constituted a significant investment into housing rather than making the problem worse, which is what Labor is proposing to do.

CHAIR: Building 30,000 houses doesn't make the problem worse.

Senator McKENZIE: Chair, some of us have actual questions for the governor and, despite the lovers tiff going on here—

Senator McKIM: I was responding to an unruly, disordered interjection. This is taking up my time, so I would like to ask a question. We don't get all that much access to Dr Lowe, and thank you again, Dr Lowe, very much for coming in. You were asked about alternatives to fight inflation at the National Press Club in April. You mentioned tax reform. I was very pleased to hear you say that, and you have referred to it again this morning. There are other options apart from tax reform, are there not? I hope you weren't mounting an argument this morning that we should outsource tax policy from the government to some independent authority like the RBA,

but what about things like price control? The government, I point out, is already engaged in price control in the energy sector. We recalled parliament last year to deliver an element of price control in the energy sector, so there is price control, tax policy and even prudential policy that could make a difference in those areas. Would you agree?

Mr Lowe: In some limited and specific circumstances, I understand that price controls can be beneficial. But as a general proposition, I think it is the wrong way to go, because price controls distort the supply side of the economy. They might help reduce some other problems with affordability but price controls distort supply, and we have to do everything we can to free up and advance the supply-side economy, not just in the housing market but everywhere. So if we accept the proposition that the solution to inflation is price controls, we will distort the supply side of the economy. We might get inflation down for a bit but we will all end up poorer.

Senator O'NEILL: We will make it worse.

Mr Lowe: No, I don't support the general proposition; although in some cases there might be a case.

Senator McKIM: On the supply and demand issue, there is a work published by Cameron Murray, a housing economist, who has estimated that with the current rate of sales there are 12 years' worth of vacant land in Australia already zoned as residential. Are you aware of that?

Mr Lowe: I am not aware of the work but the proposition—

Senator McKIM: Could you on notice have a look at that and provide a response—Cameron Murray.

Mr Lowe: Yes, okay.

Senator McKIM: Yesterday the secretary of Treasury told the committee that in his view there are no signs of a wage-price spiral developing. No signs was Dr Kennedy's evidence. Would you agree with that?

Mr Lowe: Yes. As I said before, wages have not been a driver of inflation. At the moment, there is no sign that higher prices lead to higher wages, leading to higher prices and so on. That is not happening. I want to come back to the unit labour cost growth. We have to have labour cost growth starting with a '2' and we don't at the moment. It is not a spiral at the moment, but we could be faced with unit-led costs growing structurally too fast.

Senator McKIM: You said there is not a spiral at the moment but would you also agree with the contention that there are no signs of a spiral developing?

Mr Lowe: It is not occurring.

Senator McKIM: But are there no signs of it developing?

Mr Lowe: I would agree with what Stephen Kennedy said but we need to be, as Senator Smith said, vigilant here.

Senator McKIM: Last estimates you told the committee that profitable banks are a positive for the country.

Mr Lowe: Indeed.

Senator McKIM: Australia's banks are recording record profits at the moment driven in large part by the interest rate rises that the RBA has put in place over the last year or so and also driven by the dirt-cheap funding that the RBA has provided them with over the last few years through the . Do you still assert that banks making record half-year profits is a positive for the country?

Mr Lowe: I assert that a strong, stable banking system is good for the country. We have seen the problems, both in the United States and in Switzerland, since we last met. It brought those economies to the precipice because they didn't have strong, stable, profitable banks. It is true that the dollar profits are really quite high but remember that bank capital is also at a record high, so the best way to think of it is the rate of return on equity, which is strong for Australian banks but it is not at record levels. Some of the banking systems have higher returns on equity. Having solid returns on equity is good for the banks because it allows them to raise capital and support businesses. I would also take contention that the high bank profits are because we raised rates. The increase in rates hasn't really affected bank margins at all. Net interest margins—

Senator McKIM: That is not what banks are saying.

Mr Lowe: I don't know what they are saying. The TFF, Term Funding Facility, gave them subsidised funding but that subsidised funding led to all those cheap fixed-rate loans that people had for three years. It was a huge benefit for three years. People are complaining because they have to refinance but they've had a benefit because of that. So the banks are profitable at the moment because problem loans, as share of the total loans, are very low, so they are having to meet very few impairment expenses.

Senator McKIM: You have acknowledged previously that the RBA overreached in its response to the pandemic. Why haven't you sought to wind that back? Why haven't you adjusted the terms of the TFF loans to the banks?

Mr Lowe: The Term Funding Facility is starting to mature. There will be a big bunch of maturities in September and another bunch of maturities in June next year, so those funds will all be wound back. We made the decision during the pandemic to make these fixed-rate loans to the banks at these low interest rates to help support the economy, and I think it would be a mistake to go back and say, 'We've changed minds on this'. We made a commitment and, as an institution, when we make commitments we try and stick to them.

Senator McKIM: You said that you agree with the evidence given by the secretary of Treasury yesterday that there is no sign of a wage-price spiral. At the moment we have Telstra contacting their customers saying that they are increasing the prices of their mobile and data plans in line with CPI. So if companies are increasing their prices in line with the CPI and the CPI is above the RBA's target band, which it clearly is, and significantly above wage growth, which it clearly is, doesn't that mean actually that corporate profits are playing a role in driving inflation? So don't we have a price-price spiral going on rather than a wage-price spiral?

Mr Lowe: No, we don't. I think we have discussed this previously. We can all point to specific examples like Telstra. Qantas is another one that has recently been in the news. When we look at the aggregate data, the share of national income that is going to profits, if we put aside the resources sector, really hasn't changed. If profit margins were systematically widening across the country, we would see that in the aggregate data. There are certainly some firms where profit margins are rising but there are other firms where profit margins are under pressure. Construction is a good example of that but there are others are well. When we look right across the economy, the profit share, outside resources, hasn't changed. If there was profiteering and excess profits being increased then we would see the profit share rise and we haven't.

CHAIR: One final question and if I could ask for a brief answer, thank you.

Senator McKIM: In that case, I'm not going to ask that question; I will ask a different one. Dr Lowe, you said in a speech earlier this month that if we can get an inflation back to three per cent in a couple of years and the unemployment rates goes up maybe to 4.5 per cent, in your view, that would be good outcome for the country. So you are basically saying—I've just on this on the back of an envelope—about 130,000 people extra out of work would be a good outcome for the country. Is that really your view?

Mr Lowe: That is not how I phrased it. If we can get inflation back to target and we can keep unemployment below where it was before the pandemic, where it was below where it was for 30 years, have the economy continue to grow, I think, would be a good outcome.

We have to be realistic here. Our assessment—of Treasury, of the government and of most private sector economists—is that we're beyond full employment. In most estimates of full employment it's kind of in the low 4s. That could be wrong. And it may be possible to keep the unemployment rate at 3½ per cent. I'm sceptical that we can. If we can, that would be fantastic. But it would also be very good if we could keep it at 30- and 40-year lows.

Senator DEAN SMITH: Governor, earlier on you talked about some of the challenges around consumer demand and household spending. Can you elaborate on those for the committee?

Mr Lowe: It's a very mixed picture at the moment. You can see that from the data that the banks provide us and in the various credit figures as well. And you can understand why it's mixed—people are getting jobs at the moment; their nominal incomes are rising. If you've got strong growth in nominal income and you don't have a mortgage, things are much easier. Housing prices had been declining, but now they're rising. That's affecting some people as well. And many people built up very large buffers during the pandemic. The additional saving over and above what would normally be done over those two years was equivalent to 20 per cent of one year's household disposable income—a huge amount. It's not evenly distributed. Upper- and middle-income earners probably saved more of that. So, there are a lot of different pieces—people getting jobs, they've got higher mortgage payments, they've got big buffers, and the housing prices are going up again. And depending upon where you are in the income distribution and whether you've got a mortgage or are renting, your experience is going to be very different.

When we put all that together, consumption growth is soft; retail spending in nominal terms hasn't really grown for a few months. Services spending is stronger. People are still travelling and going out—maybe not as much as they were late last year, but services spending in the economy is still strong. And retail is weak, partly because retail was incredibly strong during the pandemic. So, it's hard to know, but the assessment we've reached is that consumption is going to be weak for quite a long time, because the higher interest payments are really biting.

Senator DEAN SMITH: What can you tell us about the geographic distribution of the economic pain? In the *Statement of monetary policy*, at page 31 it says:

... the shift in consumer demand is said to have been more noticeable in geographic areas that have below-average income.

Then, on the following page—this is part of the business liaison part of the statement—it says:

Looking to the period ahead, retailers expect the decline in retail sales volumes to continue over coming months, primarily driven by reduced spending in areas that tend to have below-average income.

Then in some other evidence from Dr Jones there was discussion about the Reserve Bank's discussion with the banks and the data they're able to bring to the discussion. Are you able to share with the committee where the geographic pain is being felt or likely to be felt across Australia?

Mr Lowe: We don't have data from the banks on which localities people are doing the spending in. What we do have insights on is that in areas where people have borrowed a lot of money recently—

Senator DEAN SMITH: Areas where perhaps there is a high proportion of first home buyers?

Mr Lowe: That would be a reasonable assumption. And you would know better than I where in your electorate those areas are. But it's pretty clear from the transaction account spending data that for people who borrowed a lot and borrowed a lot recently—that is, in the last three years—their spending is growing much more slowly than for the rest of us. And in areas where there are a lot of low-income renters those people are having to cut back more. That assessment from the banks is corroborated from our liaison with the retailers, who say that in their shops in locations where there's lower income or a lot of first home owners spending is slowing more. I can't be specific about which particular localities they are—you'll know that better than I will—but the general point is right. In lower-income areas, where there are a lot of people with recent debts and a lot of renters, conditions are softer than in more wealthy parts of the country. It's very uneven.

Senator DEAN SMITH: Is it a safe statement to say that areas with high levels of first home buyers et cetera are likely to be at the periphery of our cities and larger regional centres?

Mr Lowe: There are more people, first home owners and people who bought recently in new divisions on the edges of cities—that would be reasonable. But I don't have specific data on locality—

Senator DEAN SMITH: Do you have a sense of which capital cities are likely to be experiencing more of the mortgage pain than others?

Mr Lowe: I think it's pretty much national. The low unemployment is national. It's not the case right at the moment, but a few months ago unemployment was below four per cent in every state in the country. Low unemployment is everywhere, and the retail story is not distinctly different across states. It's within our cities, where the nature of people and their incomes—that's the difference.

Senator DEAN SMITH: Going back to some earlier comments you made—which Senator McKim touched on—you talked about a design of a different set of relationships in terms of how we might in the future approach fiscal policy settings. Did I hear that correctly?

Mr Lowe: Let me just say, it's a philosophical question and a governance question. From a public policy point of view, do you want all the burden of managing aggregate demand to be done with interest rates? You could design different governance arrangements, where tax, or expenditure policy, is moved as an instrument of aggregate demand management. It would be difficult to do because, with the greatest respect, I think it's easier for the board of the Reserve Bank to take these hard decisions to inflict pain than it would be for the political class to increase taxes. In principle, we're smart enough to work out how to overcome that problem. But there's a governance and political issue that would need to be solved. The experience, both here and elsewhere, is that that's too hard. It could be done but it's hard. And would you want to do it? I don't know.

Senator DEAN SMITH: This is a very left-field question: would longer parliamentary terms—for example, three to five years, or five to seven years—be part of the governance redesign that might assist in—

Mr Lowe: It might be. But in countries with longer parliamentary terms, they haven't solved this problem either.

Senator DEAN SMITH: I'd agree with that.

Mr Lowe: The difficulty is that restraining aggregate demand is painful and it's unpopular. As a central bank, we're immune from that whole process. The experience has been that it's better to give independent entities, that are apolitical, the decision to do that—even though it's unpopular. It's not beyond our capabilities to come up with a different set of arrangements, but it's just hard.

Dr Jones: One of the arrangements that has been mentioned—Senator Hume brought this up earlier, and Mr Olivier Blanchard has spoken to—has basically put on the table the option of having the automatic stabilisers play a larger role than they already do. As the governor mentioned, making discretionary fiscal policy changes during a business cycle has its complications, and so one of the options that economists abroad have discussed is whether the automatic stabilisers should have a larger role through the cycle.

Senator DEAN SMITH: Another question to take on notice—

CHAIR: Last question.

Senator DEAN SMITH: Is the bank able to do an exercise, in the public interest, about the geographic disbursement of the mortgage pain that has been referenced in the *Statement of monetary policy*—a geographic exercise in terms of the retail experiences of lower income families et cetera? I know you said it was a national experience, but, in terms of where the mortgage pain is most pronounced, are you able to do an exercise at a high level to identify those geographic areas?

Mr Lowe: That data must exist somewhere between the bank regulators and the banks. The banks are very helpful in sharing their data with us, so we'll explore that and see what we can provide for you.

Senator DEAN SMITH: If you could take that on notice, that would be great. I have two very brief questions if time allows at the end.

CHAIR: Sorry, Senator Smith, I've got three senators who have questions and 15 minutes left, which leads me to move now to five-minute blocks. I'll give the call to Senator McKenzie.

Senator McKENZIE: Good morning, Governor. As the shadow minister for infrastructure, I'm really interested because you made a lot of commentary in the minutes of your last meeting around weak productivity growth across the economy et cetera. I know you've discussed the wage piece of that, but I'm interested to understand the role of infrastructure investment in the right places to actually increase productivity across the economy and the government's decision to put a nominal cap on that infrastructure pipeline at \$120 billion for a decade, which effectively means less infrastructure over time. I wanted to get your comments from the Reserve Bank's perspective.

Mr Lowe: Without commenting on the government's specific policy—

Senator McKENZIE: Of course not.

Mr Lowe: we are going to have two per cent more people in the country this year. The capital stock is not increasing by two per cent. We're seeing the effect of that in the housing market. But the fact that the capital stock is not rising along with the population means that each Australian has less capital to work with. The amount of capital that we have to work with on average is one of the drivers of productivity growth. If we're going to have two per cent more people in the country, we need two per cent more capital. That requires investment by business and investment by government, and we've got to find a way collectively to do that. Strong population growth brings a lot of benefit, but we do need to increase the capital stock in line with the number of people in the country, and that requires high levels of investment. If we don't do that then we're going to struggle. The housing market is the most salient example of that, but, if we don't invest, we will see more and more examples of it over time. How to do it is beyond my expertise.

Senator McKENZIE: In investing in infrastructure there is a range of types of infrastructure. Obviously, you can invest in some to create better productivity outcomes than others will create. Does the Reserve Bank have a view on which types of infrastructure will lift productivity growth and those that will have either a negligible, a neutral or a negative impact?

Mr Lowe: Again, I don't want to single out anything in particular, but—

Senator McKENZIE: I'm not asking you to do so.

Mr Lowe: the design and planning of transportation networks in our bigger cities is incredibly important because we can all waste a lot of time and energy in not being able to move around cities because of congestion. The housing challenges the country faces are inhibitors to good productivity. If people can't find a good place to live that they are happy with and move easily around the city, they cannot work effectively, so redesigning cities and solving the housing problem is the single biggest thing we could do. Then we've got to build the transportation infrastructure to support that.

Senator McKENZIE: Yes, people need to be able to move efficiently.

Mr Lowe: The capital stock needs to keep increasing if we're going to house people. Otherwise, we get crowded, we're using the same capital, and it doesn't work well.

Senator McKENZIE: You talked about the inflexibility of the supply side for the housing market in particular, and a lot of those levers obviously sit with state governments—planning approvals, land release et cetera. We're seeing the lowest number of housing approval since, I think, under the last Labor government. Currently, housing approval sits with state governments. There's a need to get state and territory and federal governments together to actually address the supply side in a serious manner, but they haven't met for the last 12 months. Do you have confidence that, if they do start to meet, we can actually get some movement on the supply side?

Mr Lowe: I don't know enough about the effectiveness of these meetings. All I know is that it is one of the biggest challenges we face as a country. Population growth is strong, and housing stress is real. We should be able to put our mind to having strong population growth and housing people at a reasonable cost and allowing people to move around our cities, and then we can be a fantastic, vibrant, growing, productive country. But we need to address this, and it has been an issue for a long period of time. One of my ex-colleagues, Tony Richards, had a two-page piece in the *Financial Review* earlier in the week talking about the challenges here. I don't know what the solution is, but it's hard to change the design of our cities because there are so many vested interests.

Senator McKENZIE: I won't ask you to comment on government policy, but I think capping investment into infrastructure in our cities at \$120 billion—at a nominal amount—over a decade isn't going to solve the problem.

I want to go to some comments earlier today by an economist who's built a reputation on gathering real-time data and to that inflation expectation becoming embedded that there is retail data suggesting there have been drops over the last fortnight in excess of 15 per cent. The transport sector has been belling the cat on inflation becoming embedded as an expectation in the economy. You're commentating that you don't think it has yet become embedded, or is that because of the data that you're able to access?

Mr Lowe: I don't think it has become embedded but there's a risk that it does. This underlies our desire to get inflation down reasonably quickly, because the longer it stays high the greater is the risk that people in the community say: 'The Reserve Bank is not serious about this. They're not going to do what's necessary. I better put up my prices.' We want to disabuse people of that notion and both our communication and our decision to increase interest rates is part of that. We've got to do what we can to disabuse people of the idea that inflation is going to stay high.

Senator McKENZIE: My call is ending, so I'll put my last question on notice. The Productivity Commission handed down a report and—to Senator Smith's point about sweating the small stuff—it had a lot of things we could do in a whole range of areas. There were 13 recommendations specific to infrastructure and transport areas. If you've done any work on those I would appreciate letting me know your views on notice.

Mr Lowe: We'll do that on notice in the interests of time.

CHAIR: Senator Roberts?

Senator ROBERTS: I have a question about the Reserve Bank's reserves. Let me get to it by giving some background. At the BRICS meeting in Cape Town on 2 and 3 June, 13 nations will formally apply to join BRICS, which is currently Brazil, Russia, India, China, South Africa—and Saudi Arabia, with an each-way bet. Candidate nations include Mexico, Argentina, the United Arab Emirates, Egypt, Indonesia and Iran. BRICS is now the world's largest trading bloc, accounting for 25 per cent of world trade which is expected to grow to 50 per cent by 2030. And it's big in oil.

BRICS member states are abandoning the US dollar in favour of using their own currency or the Chinese renminbi in an environment where other countries, including Australia, are doing the same thing. Pakistan is now buying Russian oil and renminbi. The US dollar is now denominating just 58 per cent of all world trade. The United States has printed \$10 trillion over the last seven years, doubling their M2 money supply. That increase has been absorbed in part by an increase in international trade.

As the world moves away from the US dollar the value of the US dollar may fall. The Reserve Bank holds United States treasuries and dollars. Have you modelled the effect on your balance sheet from that probable fall in the value of US holdings.

Mr Lowe: Not as a result of these other global changes you've talked about. We spend a lot of time and part of our risk management processes looking at volatility in currencies, because currencies move around all the time, don't they? That affects the value of those assets on our balance sheet, so we model that from a risk-management perspective. Despite the developments you're talking about, most countries still hold the bulk of their foreign reserves in US dollars. There's diversification going on, which is good, but the US dollar is going to remain the dominant currency for some time.

Senator ROBERTS: What is the value of Reserve Bank holdings of US dollar and US treasuries in Australian dollars?

Mr Lowe: Our total foreign reserves at the moment I think are the equivalent of US\$35 billion. What's the share, Brad?

Dr Jones: I think it's 55 per cent.

Mr Lowe: Roughly half of that \$35 billion is allocated to US dollars, and then we have holdings of yen, Korean won, euros and rmb.

Senator ROBERTS: What about treasuries?

Mr Lowe: When we hold US dollars we invest it in US Treasury securities. We don't invest in bank deposits or any other securities. We invest in US government securities.

Senator ROBERTS: What's the reverse holding of Australian government currency and bonds held by the US government or their agencies?

Mr Lowe: We don't have data on that.

Senator ROBERTS: Could you get that on notice?

Mr Lowe: No.

Senator ROBERTS: You don't have it?

Mr Lowe: We don't have data on specific holdings of other countries.

Dr Jones: If I understood your question correctly, Senator, the US holds euros and yen, from recollection, but not in large quantities.

Senator ROBERTS: While that arrangement helps with international stability across holdings, it is a method for backdoor quantitative easing. Does the Reserve Bank expect to increase your holding of US treasuries in the next 12 months?

Mr Lowe: We've just done an exercise where we were looking at how much of our balance sheet should be held in foreign assets. We said we've got \$35 billion at the moment. As the size of the economy grows you would expect that to gradually increase. But, no, nothing dramatic. As the economy grows and the nominal value of the Australian economy gets bigger, then you would expect a bigger portfolio in US dollars and foreign currency.

Senator ROBERTS: The Reserve Bank has a mission to anticipate movements in major trading partners and in world markets. As it affects your provisioning and portfolio, does the Reserve Bank anticipate being affected by any out of the ordinary moves in financial markets in connection with the US economy or the US dollar over forward estimates?

Mr Lowe: We've recently been focused on the US debt limit issues in the US. If an agreement had not been reached there, that would have had implications for currency markets and economies around the world. So that's one thing that we've looked at carefully. It looks like that has been resolved, thankfully. And, just as part of our general risk management exercise, we're looking at developments in other economies and their implications for currency markets in own economy.

Dr Jones: As a general rule though, the way the bank has operated its reserves has changed quite a bit over the last, say, 25 years, and now the bank effectively sets key benchmarks and sticks to them. There are not big discretionary decisions going on every day. There's wild speculation going on at the Reserve Bank, I can assure you, about the future value of exchange rates.

Senator ROBERTS: I wasn't implying that. Worldwide purchases of US treasuries by central banks has fallen \$600 billion in 2022 as compared to a baseline year of 2013. That's just arbitrary—2013. Purchases of gold have increased \$300 billion. So something is going on that Australia would be prudent to hedge against. Is the Reserve Bank increasing its gold reserves as an each way bet against BRICS introducing a gold brick currency of some form?

Mr Lowe: No, we're not. We've got our gold reserves. We haven't bought and sold for a long time and we have no intention of changing that at the moment.

Senator ROBERTS: Thank you, Governor.

CHAIR: Senator Bragg.

Senator BRAGG: I'll be brief. Governor, I listened carefully to what you said this morning about inflation and the budget. I note that budget paper No. 1—I don't expect you to have the table in front of you—sets out that

there is \$13.7 billion to be spent based on new policy decisions in 2023-24. On its own, is that almost \$14 billion inflationary?

Mr Lowe: I've haven't got the data in front of me. My understanding was that the additional spending in the next financial year was \$4 billion—

Senator BRAGG: It's \$14 billion.

Mr Lowe: and \$14 over the forward estimates.

Senator BRAGG: It's \$14 billion in this year 2023-34.

Mr Lowe: I'm not sure. Anyhow, rather than argue over the numbers, the additional spending in the budget hasn't shifted the dial in terms of macroeconomic settings. In an economy that is \$2.3 trillion, it hasn't affected our thinking about the outlook.

Senator BRAGG: So \$14 billion is immaterial?

Mr Lowe: I wouldn't say that. The benchmark I was using here was \$4 billion. But, anyhow, it isn't enough to shift our forecasts.

Senator BRAGG: Secondly, can I ask you about this Australia Institute report which talks about profits and inflation? What is your view, in 30 seconds, on that report?

Mr Lowe: The conclusion is wrong. Profits have increased broadly in line with the economy. Firms have been able to pass on cost increases into prices and they've been able to increase their nominal profits, but, as a share of the economy, profits have not risen outside of the resources sector. So I'm going to push back against the idea that it's profits that are driving inflation.

Senator BRAGG: Are you aware of any prior RBA governors being removed during a tightening cycle, without retiring?

Mr Lowe: No, central bank governors aren't removed. Some previous central bank governors, the previous two, had term extensions; before that, that was not the case. There is no suggestion by anyone that I will be removed. My term runs out in September, and whether I'm reappointed is a matter for the government.

Senator BRAGG: But, if that did happen, do you think that would have an impact—real or perceived—on the independence of monetary policy?

CHAIR: That's a highly hypothetical question for Dr Lowe.

Mr Lowe: Who knows? It depends on who my replacement is, doesn't it? I have a seven-year term and I intend to fulfil that term. If I'm asked to stay, I would; if I'm not, I'll support whoever replaces me.

Senator BRAGG: We certainly hope you do remain. I'd like to cede my last minute to Senator Smith.

Senator DEAN SMITH: I'll place a question on notice, if I can, Governor. At page 51 of the *Statement on monetary policy*, it talks about how scheduled mortgage payments are expected to rise to '9.9 per cent by the end of 2024'. I'd be interested in an historical analysis of the scheduled mortgage payments. I think the collection for the data might have started in 2009. So, can that dataset can be provided from 2009?

Mr Lowe: We've got estimates that go back in time. They're not 100 per cent comparable, but they're pretty comparable, and we can provide that data for you or point to where it is.

Senator DEAN SMITH: That would be great.

Mr Lowe: This is one reason why our assessment is that monetary policy is quite restrictionary at the moment. Australians will be devoting a higher share of their income to mortgage payments than ever before, and it's tough.

Senator DEAN SMITH: My suspicion is it's historically high—

Mr Lowe: It is.

Senator DEAN SMITH: if not the highest since records began.

Mr Lowe: It will be the highest. I can confirm it's the highest.

Senator DEAN SMITH: You can confirm it's the highest?

Mr Lowe: Yes.

Senator DEAN SMITH: Very briefly, on notice, an update on the design of the \$5 note would be much appreciated.

Mr Lowe: Okay.

Senator DEAN SMITH: We look forward to seeing you at estimates in October.

Mr Lowe: Well, perhaps—we'll see!

CHAIR: Thank you. This concludes the time we have for this session. Dr Lowe, thank you very much for the time you've taken to answer our questions in the public interest. The committee very much appreciates it. Thank you, Dr Jones, for your answers as well. You go with our thanks.

Mr Lowe: Hope to see you in October.

CHAIR: Indeed!

Proceedings suspended from 11:02 to 11:15

Australian Prudential Regulation Authority

CHAIR: The committee will resume, and we welcome representatives from the Australian Prudential Regulation Authority. Mr Lonsdale, welcome. We've received a copy of your opening statement. Would you like to speak to it?

Mr Lonsdale: Good morning, Chair. You've got it? I would like it tabled and for that to be reflected in the *Hansard*. Other than that, I'm very happy to take committee questions.

CHAIR: You're happy to proceed straight to questions?

Mr Lonsdale: Yes.

CHAIR: Great. We'll go to Senator Hume.

Senator HUME: Thank you. Before we begin, Mr Lonsdale, I acknowledge that it's Ms Rowell's last estimates, after 21 years at APRA. Thank you very much, Ms Rowell, for your service, both as an employee of APRA and also as the deputy chair, and for your long history of the good work you've done in superannuation and insurance and other areas of the organisation. We wish you well after 30 June this year.

Mrs Rowell: Thank you, Senator.

Senator HUME: I want to ask some questions, first and foremost, around prudential stability and confirm, I suppose, your latest view of the prudential stability of Australia's banking and financial system, particularly in the context of some of the banking collapses that we've seen overseas recently.

Mr Lonsdale: Thank you for question, Senator. Yes, there were some recent stressors in US banks, and European banks as well, and they have highlighted new complexities and challenges that we need to lean into. The short answer to your question is: the Australian financial system remains very strong, very stable, very resilient, and there are three important factors that underpin that. One is the regulatory arrangements that apply. For a long time, in my history, governments, parliaments have placed a great deal of priority on safety. We've had three independent inquiries in modern times—Campbell, Wallis and Murray—and more recently the royal commission. They have all made very useful inputs in improving safety and stability of the system.

The prudential regulations that exist, whether you're talking about capital liquidity in particular or a super equivalent with the Basel standard—take capital for example. We have unquestionably strong capital arrangements; our major banks are among the most well-capitalised banks in the world. The risk weighting that applies is very strong. We've calibrated that for Australian conditions given the waiting on mortgages, so we're very strong there. IRRBB—interest rate risk in the banking book—is an esoteric risk that isn't often looked at, but we are the only jurisdiction in the world to apply that at pillar 1 level. That means, as interest rates go up, we require major banks to hold more capital in broad terms, and that is precisely one of the key issues that happened with SVB, but that regulation did not exist. Liquidity is a very important issue, again, with super equivalent in terms of the holdings of high-quality liquid assets. Credit standard's very strong and pushing hard on operational risk.

The second factor is that you have a prudential regulator that is good and capable—and it's not just me saying that. We think we are. And the third factor—ultimately the stability, the viability of an organisation comes down to the people running these banks. I've attended board meetings of three major banks in the last few weeks. I've reiterated to them the importance of prudential management but also the lessons from what we saw in March. I can tell you that all of them are very alive to that. All of them are trying to improve the trust that they have in the community, so that gives me some straw as well.

Senator HUME: Can I ask about our links to the United States and Europe and whether there is any sort of contagion effect of some of the instability that has been present there. Even though we have in place all of the strengthening measures you've already mentioned, what are our linkages and what is our insulation?

Mr Lonsdale: The global financial system is complex. Of course we have linkages to other parts of the world. There are key areas in the wholesale markets, for example, where our major banks in particular, but not just the

major banks, access funding through wholesale funding markets. Where there's fragility in those markets, not caused by Australia but caused by other events, that means there are some issues to be aware of. We pay very close attention to it. Certainly the banks do as well. In terms of the funding requirements, all the banks are in front of their funding requirements. So that is a key area.

We look as well at exposures that banks might have directly to other banks. In the case of SVB there were none, but it is something we look at very closely. Where there is more risk we want that dealt with appropriately, which usually means you're making sure the controls are there.

Senator HUME: I think the last time we saw you was before the UBS takeover of Credit Suisse. We've been talking a lot about SVB. That's obviously the US experience. What about the European experience and the linkages to Europe?

Mr Lonsdale: Of course, there are funding market linkages there. Credit Suisse has a small presence in Australia as well, so we certainly had a close look at that for exposures, and there was nothing to concern us on that front. I think—and this is a little bit broader than you're asking—there are important lessons from the Credit Suisse event, and the US banking events as well, that are causing global regulators to think hard about what all this means. Probably the key one is the speed with which deposits flowed and left these banks that were in difficulties. In the case of SVB, a third of the deposits left in just a matter of hours—in the UK subsidiary. That's very, very fast.

In the case of Credit Suisse, an interesting observation is the treatment of these hybrid instruments, AT1s. Usually, you would see shareholders be the ultimate carriers of the loss when an entity is in trouble. In Credit Suisse's case, the AT1 holders bore quite a lot of that burden. That does cause you to think about the hierarchy, and it does cause you to think as well about who is holding these securities. In Australia's case, a lot of them are held by retail people. That is an interesting issue we need to think about, as well as the guarantees that were applied by governments globally. So there are linkages and there are lessons.

Senator HUME: The Treasury secretary yesterday spoke at some length about the risk of a global mid-sized credit crunch. Is that something that APRA has an opinion on? Do you share the concerns of the Treasury secretary?

Mr Lonsdale: We don't have an opinion per se or a house view on that. The way that we approach it, though, is that we're really thinking through the risks. We are in the risk business. There are some risks that are evident in, if you like, an everyday sense—we need to make sure capital is strong, liquidity is strong and credit standards are strong—but there are also some other risks, which are less 'here and now' and more 'tomorrow', that we stress test the banks for and that we think deeply about in making sure we're as ready as we can be. While we don't have a house view, in terms of risks that could eventuate we certainly pay heed to all of those issues.

Senator HUME: What about particular sectors? The one that springs to mind is that there has been a bit of reporting recently on the commercial property sector domestically and the exposure of the banks and also the super funds to commercial property. Do you have a house position on that?

Mr Lonsdale: The house position would be that we look at that very, very closely. That is a key area of risk that we would look at, particularly in a slowing macroeconomy. We talk to the banks on those issues, whether it's commercial property, infrastructure or small business—particularly if it's business issues—and make sure that we're comfortable with where things are, and we certainly are.

Senator HUME: That's the commercial property sector—that's getting a lot of reporting now—but what's the next sector that you see might be the at-risk sector that our banks and super funds may also be exposed to?

Mr Lonsdale: There's an array of sectors that we look at. We don't assign probability to it as such. The way in which we tend to think about it is top down, so we would look at how we see the economy playing out. It is weakening. We've still got inflationary pressures in the system, so that feeds through, particularly into cost-of-living pressures for people who hold mortgages, but also for businesses in different ways, depending on the leverage. So we would try to trace through that. We would stress test—and the stress tests are quite heavy; they're top-down stress tests—to see whether there are any particular issues that we need to lean into. That's largely the approach that we take. It's a top-down kind of approach.

Senator HUME: I just have a couple of questions around serviceability requirements on mortgages and, in particular, this idea of a mortgage prison that there has been a lot of commentary on lately. The idea is that, because of the serviceability requirements of mortgages, loans are creating mortgage prisons. Customers don't have the liquidity to be able to switch providers, so they're stuck, unable to refinance their loans. Do you have a sense of the scale of the problem?

Mr Lonsdale: Yes. We've been looking very closely at the serviceability issue, and there are two bits to it, I'd say, that are attracting our attention. One is the issue you raised and the other is the issue we've talked about before, which is the number of people rolling off, typically, low-rate fixed-rate loans and onto high variable-rate loans and how that mortgage stress looks.

On your point I will make a few points. Context is very important. We've got a lot of refinancing happening in terms of loans. When you look at the refinancing that is happening, most people, when they refinance, will stick with their own bank for a whole variety of reasons. Each month we have—on the last figures I saw—about one per cent of the total stock of loans changing provider, and that is the highest level in 20 years. So people are refinancing. There looks to be competition there, and they are switching where they can switch. We asked ourselves: are there issues about the regulatory settings, particularly the serviceability buffer, that might cause us to think that there's a regulatory impediment there that needs addressing? Our view is that, no, we don't think that it is unduly impeding people's ability to switch. We constantly look at the serviceability buffer itself. We think that three per cent is the right number, and we think that for a few reasons. We've got a weakening macroeconomy. Globally, it is weakening. We've got inflationary pressures in the system. We've got a labour market that is forecast to weaken as well over the course of the next 12 to 18 months. All of that suggest that we should have a prudent serviceability buffer, and that's why we think the three per cent fits.

When you think about the things that affect people's ability to take out a new loan, it's not just the interest rates. The serviceability covers cost of living, for example, and that has gone up significantly. Some people who own a house and want to switch will find that the price of their house has gone down, so their deposit or equity is less than it was when they first took out the loan. All of these complex effects can affect somebody's ability to take out a loan. Where a bank has or sees a good customer, but they might fail the serviceability test, if the bank looks at their track record on payments and they are a good borrower then it can lend to them. We have an exception policy under the APRA standard that allows the banks to lend to those people. That is there, and it is being used. Probably two to three per cent of loans written are written under this exception policy. APRA says, 'We don't want that to overshadow the serviceability buffer, because there's an important reason why it's three per cent. But, if there's a good borrower, banks can write that loan.' That's up to the banks. We want them, of course, to report that to us, and we want to have a close look at that.

CHAIR: Last question, Senator Hume.

Senator HUME: The serviceability buffer has been around for some time now, and I think it's well understood, but it does seem to be gaining a bit more attention, particularly as interest rates rise and potentially as house prices have fallen too. Has the government sought advice from APRA or met with APRA regarding the issue? Have they picked your brain as to how the serviceability buffer could be tweaked in any way to provide more options to mortgage holders, or has any advice been given to government to say, 'We think it's working as it should'?

Mr Lonsdale: We are an independent agency that makes this decision on the serviceability buffer. We do talk about it regularly at the Council of Financial Regulators—the macroprudential settings in particular—and I'm sure we will at next week's Council of Financial Regulators meeting. In terms of government, I keep the government regularly apprised about how we see the macroprudential settings and why we think they're appropriate.

Senator HUME: So no specific requests have been made to you about that issue?

Mr Lonsdale: I have conversations with the Treasurer, with the government, on the serviceability buffer, on mortgage stress and on a whole range of issues that relate to macroprudential policy, yes.

Senator HUME: Thanks, Mr Lonsdale.

CHAIR: Senator Bragg.

Senator BRAGG: Good morning. I want to ask you some questions about the best financial interests duty in the super sphere. You'd be aware that the government conducted an inquiry, I think through the Treasury, into the Your Future, Your Super package, which looked at the best financial interests duty. Are you aware of that?

Mr Lonsdale: Yes.

Senator BRAGG: The government has said that it will not change that duty. I imagine that's a positive development from your perspective?

Ms Cole: Yes, we are aware of that, and, yes, it's helpful to have that confirmation.

Senator BRAGG: That's good. Then the question is, now that the law is assured, what sort of guidance do you think might be published—because this is really a question for you. The minister, I believe, has said in his

statement that there could be some further guidance. What do you imagine that could be? The explanatory memorandum here is very clear and the law is very clear.

Ms Cole: The best financial interests duty is a really critical and important point in delivering great outcomes for members, and we put that at the heart of everything we do in looking after superannuation at APRA. Yes, the legislation is clear, and that is why we've rather stood back and waited to see how this review played out before committing ourselves to any guidance. We have a review on at the moment into our core standard that supports member outcomes, and we are considering adding some guidance into that.

But I do understand what you say there. We want to be clear that, if we put out any guidance or information about this, we're not limiting the scope of the duty. The duty is extensive. It's there in the legislation and it is for trustees to work hard to observe it. Now, there are aspects of expenditure—and you will know we've done an expenditure review in the past and we look regularly at expenditure issues—that are clearly acceptable types of expenditure, and some types of expenditure may be areas which we think trustees should look at far more carefully. That's our approach to it. Yes, we are considering some guidance very much with the importance of this duty in mind.

Senator BRAGG: So you're not sure whether there will be guidance. Minister Jones has said here: Stakeholder uncertainty and concerns can likely be effectively addressed through further guidance from the regulator. Given the law and the EM are already so clear, I'm just not sure what sort of guidance will be provided. The EM provides examples of what is okay and what is not okay. I'm not sure what guidance you could publish here.

Ms Cole: We are looking at guidance. We will work through what that might look like and whether it will be useful and helpful to the community for trustees, if they are in any doubt, to make sure they do not do things that are contrary to the duty. We are looking at it, yes, and we'll finalise that guidance if we think it's appropriate to issue.

Senator BRAGG: If you think it's appropriate; I think that's the key word. Thank you.

I want to take you to this longstanding issue about expenditure and what sort of expenditure is compliant with the best financial interest test. I wrote to you in May last year, and you replied to me saying that you had commenced some preliminary analysis of the data published by the Electoral Commission to understand the broad nature of such payments and, in some cases, 'we'll explore the information in more detail'. That was a letter from you on 13 May 2022.

Ms Cole: Yes.

Senator BRAGG: Given there has been ongoing interest in the money that is transferred from super funds to unions in particular—in some cases quite large funds—where is that work up to?

Ms Cole: We have ongoing work in this area. We've looked at the data from the Australian Electoral Commission this year as well, so that means we've had a look back over six years. We have some supervisory work, where we are pushing into asking questions of certain entities about what we are seeing there. That's very much in the course of supervision. We also have ongoing inquiries—which I've mentioned in this committee before—to see where, in a particular case, certain moneys have been passed between the super fund and another entity, what those payments are for, whether they are value for money for super fund members, and whether, indeed, they are appropriate payments. That piece of work is ongoing. I won't comment on or name any entities, and I would say that that piece of work is pursuant to our—there's a formal investigation, and it will take time to work through the collection of evidence. At various points along the journey of that investigation, we will examine what we are finding.

Senator BRAGG: You now have a formal investigation?

Ms Cole: Correct.

Senator BRAGG: I understand you've got a difficult task to come to this committee and answer these questions. I was going to read out some of the *Hansard* from the last two estimates, where you have said similar things, but you've now said something different, so I won't do that, because I don't want to waste—

Ms Cole: I don't think I said anything different.

Senator BRAGG: In November 2022, you said:

But we are examining certain payments made by the superannuation funds to associated entities of political parties where the purpose of the payments and/or the value for members is unclear. That work is ongoing.

Then, in February this year, you said:

There are certain payments that we are looking into further regarding the nature of contractual payments between super funds and service providers which might be related entities. We continue to look into some of those payments.

Now you're saying that's a formal investigation.

Ms Cole: I think I alluded to the fact 'where we have an investigation or an inquiry'; they were the words I used last time, I think. I have used that word before. But I'm not splitting hairs with you. Yes, there is a formal investigation. In the context of that, I'm not going to be able to reveal anything to you. That is difficult because I want to make sure that we conduct that investigation properly, that we give everyone appropriate their rights and that we do our work properly and well, as you'd expect us to.

Senator BRAGG: I appreciate that. There are two things I'm trying to balance here in my mind. We're performing our role as a Senate committee, looking at your activities in relation to law enforcement. We're not wanting to undermine any of your investigations, but there are only a certain number of times you can come to the same committee over a long period of time and give the same answer. Ultimately, they're matters of public interest. If you're saying now that there are formal investigations into certain entities, then I guess that's the answer. Is that the answer?

Ms Cole: I'm going to give that answer for as long as I have to give that answer. I'm really sorry if it's frustrating, but it takes a while to look into things properly and to give an organisation their due rights in the course of such work. I'm going to, I'm afraid, carry on telling you that until we've reached a conclusion we can tell you about. If we reach a conclusion we're going to go ahead with, a process that will come into the public domain, that will be a moment where we can talk about what we are doing a little bit more. One would not want to prejudice any investigation or case. I'm sure everybody keeps a close eye on what we say about these issues. Sorry to frustrate you. I'd maybe find it frustrating as well that I can't tell you more.

Senator BRAGG: You're not frustrating me. There are two components to this. One is the overall public policy interest in how this law is being enforced. The other one is matters relating to particular entities. I'm not asking you to disclose or to undermine any particular investigation; I'm saying to you there is a public interest in how these laws are being enforced. You're not expected to give to this committee information that is going to undermine investigations, but we want to hear more about how this law is being enforced. You're saying there are now investigations underway. Are these into multiple entities?

Ms Cole: I don't think I'm going to go any further than I've gone in relation to the status of any investigations or inquiries.

Mr Lonsdale: Just on your first point, on the enforcement part: I want to assure you we have an appetite to take enforcement where we need to. We have a public enforcement strategy out there—one that is risk based and outcome focused—and we're very keen to be transparent, to the extent we can, to provide deterrent effects where we think that's necessary. I don't want you or the committee to think we are prolonging this in any way. We are leaning into this. But, as Ms Cole said, these matters, appropriately, take time, so we can make sure everything that needs to be checked off is.

Senator BRAGG: There's a case here, which I've written to you about before, where there's a \$2.5 million payment from the first super fund, which is a relatively small fund, to the CFMMEU. I would've thought that's a significant expenditure of members' money. I'm not sure what the benefit to the members is under the best financial interest test. Is that the sort of thing you're looking at?

Ms Cole: I'm not going to identify any party to any case we may be looking at either under our supervisory regime or under our more formal enforcement approach.

Senator BRAGG: That's fine; I understand. I'm not trying to get you to speak about it.

Ms Cole: But I would say, if I could: this whole issue of members' best financial interests and what super funds are spending members' money on is absolutely critical to us. It's at the heart of what we do. We care enormously that the money that members have in super funds should be there for their retirement future; that's absolutely critical to us. We are pushing into issues of expenditure and what's appropriate, and in certain cases we're pushing into the detail of that—where we feel there is something we need to look into further.

Senator BRAGG: I'm pleased you now have a formal investigation underway. We look forward to seeing the outcome of that.

What about some of the broader issues here with advertising? Is it okay for super funds to advertise through union websites? There are a lot of examples here I can cite and table, if you would like to look at them.

Ms Cole: We'd be pleased to look at the table. The issue with advertising is that some advertising could, clearly, be appropriate. I don't know what it is you're talking about in particular but, in a way, that's actually why

we want to look at this issue and consider some form of guidance. We can't say, and wouldn't say, that all advertising is wrong.

Senator BRAGG: So there could be guidance on advertising as well?

Ms Cole: I think that if we're going to put out guidance, this issue of what are clearly acceptable areas for advertising, or motivation for advertising, and what might be, if I can say it this way, at the harder-to-explain end of the scale is likely to be in that guidance. But as you pointed out, correctly, it's quite hard to write such guidance, so that's why we want to consider it very carefully.

Senator BRAGG: I have a set of questions on asset valuations. As you know, a number of the funds have high allocations to unlisted assets and to property. I think that Hostplus and Rest Super both earn in the double digits and that some of the other funds, like Australian Super and HESTA, have six per cent. When you took over at APRA in January 2023, Mr Lonsdale, you said to the *Australian Financial Review*:

We are going to improve investment governance of super, on stress testing, valuation and liquidity management.

How is that going? What has happened in that space?

Ms Cole: We agree that it's an important area—unlisted asset valuations generally, and particularly in super. It's a very important area. That's why we have put a lot of focus on it, why we have revised the standard and why we'll be having further guidance in this area. Again, speaking for super, we're really pushing into this with trustees about what our expectations are in their approach to unlisted asset valuations—the frequency of them, the discipline and the governance they need to have around these issues. This is very much an area of focus for us.

Senator BRAGG: The Australian Super CIO, Mark Delaney, said in the *Financial Review* that the funds' investments in this area were really disappointing and that the choices were 'the worst of all worlds'. That would indicate to me that there has been a disappointing return on investment there. Are you confident that the funds are valuing to market rates in a timely fashion?

Ms Cole: Obviously, it's a very different valuation exercise from listed assets. I can tell you that we're putting a lot of emphasis on this. We're seeing trustees and we're seeing others at the super funds about this. I think we're making our expectations extremely clear.

Senator BRAGG: Okay.

Ms Cole: And, obviously, these are long-term investments and we would expect super funds to hold a variety of assets to be able to provide for the interests of their members in the future. So it's an area that we're very much interested in and I understand why you're asking those questions.

Senator BRAGG: I'm just trying to work out what exactly you're doing here in relation to the valuation of the assets.

Ms Cole: Sure. I might ask my colleague Dr Ellis to answer here.

Senator BRAGG: Always good.

Dr Ellis: As Ms Cole said, we've updated the prudential standard for investment governance. A particular element of that is that we now have requirements on valuation practices. Previously, we had guidance but now we have binding requirements. We're focused on the quality of the governance process around the valuation and the frequency of the valuations. That's because, ultimately, accurate valuations are vitally important for member equity; when members are transacting or not transacting, nobody wants stale valuations, so it's an area that we've put new requirements out for. We're doing targeted prudential engagements with trustees to examine their processes and to ensure that they've uplifted their practices. That's the—

Senator BRAGG: What's the outworking of that, Dr Ellis? What's actually going to happen? Is there going to be revised guidance? What is it?

Dr Ellis: Yes, we've consulted on guidance and we're looking to finalise that at the end of the year. The outworking is that our engagements with particular trustees result in them changing their practices.

Senator BRAGG: Is that happening?

Ms Cole: Yes.

Senator BRAGG: Let me ask you a dumb question. Obviously, a lot of the conversation in this building is about trying to get a better deal for younger people. I'm concerned that older people are able to cash out of these funds and effectively benefit from perhaps a less accurate valuation than it may be, and then younger people pay the bill. So, if I'm a member of a super fund, can I be confident that the valuation is being done on a regular basis? How often are the valuations done for a typical property portfolio in a major super fund? Is it once a year, twice a year or quarterly? What is it?

Dr Ellis: We expect at least quarterly.

Senator BRAGG: At least quarterly?

Dr Ellis: Yes. But a big focus has been on out-of-cycle revaluations and how the trustees set up their practices around that to make decisions to actually activate an out-of-cycle valuation. It has been a big change to make sure that trustees don't just wait for the next quarter but are actively monitoring changes in volatility and markets to decide whether an out-of-cycle valuation is required at that point in time. So that's a change in our requirements and a change in practice.

Senator BRAGG: Is every fund doing it at least quarterly?

Ms Cole: That's our expectation, so in turn, we will obviously monitor that in our supervision arrangements.

Senator BRAGG: Are there some funds that are not doing quarterly valuations?

Dr Ellis: Can we take that on notice rather than—

Senator BRAGG: Yes.

Dr Ellis: make a claim—

Senator BRAGG: I don't want to cause a—

Ms Cole: No. We'll take it on notice.

Senator BRAGG: It's difficult to cause a run on a super fund because of the preservation rules, but could you please provide on notice a summary of where you think funds are in relation to the regularity of their valuations? That would be very helpful.

Dr Ellis: Yes, we can.

Senator McKIM: Firstly, does APRA have any contracts with PwC?

Mr Lonsdale: For this financial year, we had four contracts. They totalled around a half a million dollars for the financial year. Three of those contracts are expired, so we have one remaining contract, which is for around \$140,000 and which expires in June.

Senator McKIM: Thank you. What's that for? What services have you contracted PwC to provide?

Mr Lonsdale: My understanding is that it relates to data issues, but, if you want more detail, Senator, I'm very happy to come back to you on that.

Senator McKIM: Thanks. If you would, that would be appreciated. I'll ask you this question, and, if you want to take it on notice, obviously you can. Is there anything that PwC has access to within APRA that is able to be monetised? If so, what steps has APRA taken to assure itself that PwC aren't running the same scam on you as they did on Treasury?

Mr Lonsdale: On the first part of your question, the answer is not to my knowledge, and, on the second part of the question, I can tell you that we have asked PwC for assurance that the dealings that we have had with them are not disclosed to the list of partners or people that are under scrutiny at the moment. The assurance that we received back from PwC was that that is the case—our data, our information and the work that we've done with PwC is confined to the people that we've been dealing with. So that is the step that we have taken, and the subsidiary step that I would flag is that we've taken very careful note of the Department of Finance circular last week that looks very pointedly at the issue of ethical issues, and I can tell you that our procurement processes are based, effectively, on Commonwealth rules. And we will be making sure, as we always do, that where we do procurement we have value for money, we have competition, we have efficiency and ethical processes, we have true accountability and we manage the risk of the procurement actually realising what it says. So, they're the key pillars we look for.

Senator McKIM: So, you've sought that assurance from PwC, but that's confined to an assurance that the people who have access to APRA's data, or whatever data is available to the PwC people working on your contract, hasn't been shared with the people who were involved in what happened to Treasury.

Mr Lonsdale: Correct.

Senator McKIM: You don't think this issue and what we now know about it reveals a broader cultural problem within PwC?

Mr Lonsdale: Well, I don't particularly want to comment, in my role, on the culture or otherwise in PwC. Certainly it is disappointing that an entity we've been dealing with and procuring services from seems to have the ethical issues that are playing out. From APRA's point of view, I can say to you that we will take careful note of that, and in future in the way that we undertake our procurements that will be a key factor.

Senator McKIM: Alright. The RBA confirmed this morning that it has made a decision not to award any further contracts to PwC until this matter is satisfactorily resolved and that to date, in Dr Lowe's opinion, the matter is yet to be satisfactorily resolved. Are you still open to contracting PwC into the future, Mr Lonsdale?

Mr Lonsdale: The way I think about it is that we have a contract, as I said, that will be expiring in two weeks. I'm aware of no further contracts to PwC in the pipeline that we are looking at. To the extent that we employ anybody in the future, we will be strictly adhering to the pillars I outlined, which includes ethical consideration.

Senator McKIM: Alright. So, the fact that PwC basically engaged in a conspiracy to defraud the Commonwealth would factor into your considerations when you make any future contractual decisions?

Mr Lonsdale: Absolutely. To the extent that there are ethical issues there, that factors very heavily into who we employ in the future.

Senator McKIM: Thank you. PwC does a lot of work for banks, and we don't get the banks in here, unfortunately; I wish we did, because I think they've got a lot of questions to answer, and not just about PwC. But I want to ask you what work you've done, if anything, above and beyond what you've already described to the committee to assure yourself that PwC are not going to the banks with information they have discovered through their work with APRA.

Mr Lonsdale: It's hard to be specific at this stage, but I can tell you that we have been in discussions with major banks, and the last session I had was at the end of last week, on this very issue. So, it is something we are examining. I think one of the complications, which you'll be aware of, is that there aren't that many service providers that provide the types of services that particularly a complex institution—like a bank, an insurer or another regulated entity—needs. So, often unravelling issues is tricky. But we're certainly asking questions, and we're trying to understand a little more what those relationships are.

Senator McKIM: Thanks, Mr Lonsdale. You just touched on it then, but you said earlier in your answer that you have had discussions with the banks about this very issue. And just then you said you're trying to understand the nature or the circumstances. I'm not trying to verbal you; I'm just trying to paraphrase you. Can you go a little bit more into what the things are that APRA is seeking to understand through your discussion with the banks about this issue?

Mr Lonsdale: Let me say two things. First of all, we are in discussion; that's what I said. The second thing I think goes to a higher-level issue. Just to be clear, we don't tell the banks who to employ and who not to employ. They are commercial decisions for the banks. What we do say, though is: if you're running a bank or an insurer or any regulated entity you need to think about all the risks that are attached to that. We talked before about mortgage risk. This is another sort of risk that goes to operational risk. Whoever you employ, we like to know that they have thought about the risks. And if there are significant risks, that certainly the boards are aware of those risks and that that information is being presented to them, and that there are sufficient controls in place to make sure that if things do go wrong, that the functioning of the entity can still happen, basic services to the community can still happen and there's not significant reputational damage to the entities that we regulate. We don't highlight specific entities having a risk. We are looking at it top down and we are requiring entities to think about all the risks and the controls that happen.

Senator McKIM: Could you step the committee through—I think you've done it to a degree—given what we now know about PwC's behaviour, what are the risks that pertain to banks as opposed to APRA? You've said you've had discussions with banks about the risks that pertain to them. What sort of risks are you discussing with the banks?

Mr Lonsdale: I can't really say anything more than I've said. We're in discussions. Obviously if you were dealing with an entity with ethical issues there are prudential reputational standing issues. Some banks are employing, in this case PwC, but other auditors as their auditor. That is actually a big job, particularly when you're talking about a major bank. So those sorts of issues.

Senator McKIM: Who is APRA's auditor?

Mr Lonsdale: We are audited by the ANAO, so a very reputable entity.

Senator McKIM: Indeed.

CHAIR: Before I go to you, Senator McGrath, I'll use my chair's prerogative to ask some questions. I have a few questions for you, Ms Cole. On the April heatmaps, the Choice heatmaps, are you able to briefly talk us through the highlights around some concerning levels of underperformance in the Choice heatmaps? I'll give you a heads up on my follow-up question, which is how did that compare to the MySuper heatmaps?

Ms Cole: I can certainly give you some high level points there, and I've probably got a lot of detail. If I start off at the high level, the Choice heatmap published in April showed worst performance in the Choice area that products we had examined than you would see in MySuper as a headline. Certain issues were particularly stark. One of those was that the worst performance is in a number of closed Choice product areas. There are issues affecting getting members out of the closed funds. One of those is a tax issue. For me it revealed that we've got members who are not being served by being in well-performing funds and a real problem with how that gets addressed.

In relation to this year's Choice heatmap—I think Dr Ellis will have far more detail in her mind—we saw slightly less products that were in the non-performing area than in the prior year. I think the previous year it was 25 per cent failed the benchmarks. This year it's 20 per cent. One thing it demonstrates is the usefulness of the heatmaps in putting transparency around some of this performance, because it does mean that clearly some trustees have chosen to try and address the issue. But that's a small change, and the situation as a big picture point is worse than in the MySuper landscape. We would have lots more detail if you'd like it on notice or if Dr Ellis wants to fill in.

CHAIR: We may put some more questions on notice, given the time. What sorts of actions are you looking at in relation to those underperforming choice funds? In particular, do you have a stream of action in train on the closed choice funds?

Ms Cole: There are two things, really. We are moving forward shortly, when we get the regulations finalised to the choice performance test which we intend to conduct in April. Obviously, formal consequences will flow from that. We use those heat maps as a supervisory tool. That's what they are critically important for. With the information from the choice heat map, our supervisors will push into conversations and actions with those trustees where we're seeing the difficult outcomes, if you like. But there is a range of points to be considered, which do have some validity, about why it is harder to get trustees to be able to merge with a different, higher-performing product. Like the capital gains tax issue, there are some real issues there about people who have chosen to be in those funds, because they've been advised, and they may have other reasons for wanting to stay in that fund. This is a tougher nut to crack in terms of using our powers of persuasion to get trustees to ensure that they can get those members into their top-performing products. There are some really valid points there.

CHAIR: This is a final question from me. It's my recollection that, when you've been asked the sorts of questions that you've been asked today about evidence of super fund trustees making forms of donations to political parties—via unions, for example—you've generally responded that your inquiries have found there's no evidence of that. Is that still your view?

Ms Cole: I think one has to be very specific in what they say. We've looked at the AEC register for what is now a six-year period. Examining that, we haven't found anything that is described as payments to political parties. We wouldn't have a touchpoint. We don't regulate unions, so what we're focusing on is the front end of that process. As I've responded to Senator Bragg on a number of occasions, we do not see evidence in that register of payments described as political donations. But we have other issues that we're looking into, like other forms of expenditure passing between super funds and unions. We do not look and have no ability to look at anything the union might be spending its money on. We don't regulate them.

CHAIR: What triggered those investigations? Have those investigations been triggered by the deputy chair's letter to you?

Ms Cole: The deputy chair has been raising the point for quite a while—probably since before my time in this seat. We also look at expenditure issues on our own account, and we've been pushing into those. The fact that the deputy chair has helpfully provided us some information—

Senator BRAGG: We're always trying to [inaudible].

Ms Cole: Yes, of course you are, I'm sure. That has enabled us to follow up on certain issues. We are looking broadly—as I talked about before—at expenditure in the context of the best financial interest duty. This whole expenditure issue feeds back to what is in the best financial interests of members.

Senator McGRATH: Recently, in rural, remote and regional Queensland, there have been significant increases in insurance premiums—in flooding insurance premiums, to be precise. My constituents are telling me and my fellow senators, like David Littleproud, and the local members, particularly in the south-west, that there are significant threats to the livelihoods of Queenslanders due to the denial of flood insurance, the non-availability of insurance providers and the extensive increase in insurance premiums. Can you explain your modelling process relating to the financial risks associated with climate change?

Mrs Rowell: Thank you, Senator. That's a very broad question at the end. I'd like to start by talking about our focus on insurance availability and affordability, which has been a longstanding focus of APRA, and to say that clearly there's a tension between having sustainable insurance provided by the insurers and how they make sure that they are providing insurance to consumers across the whole spectrum of types of cover that is affordable and available. And so the work that we've been doing in this space is very much to engage with all of the stakeholders that are relevant—insurers, government and other regulators—to ensure that there's a coordinated effort to understand that the data and the evidence of where the pressures are, what the key drivers are of the shifts in affordability and availability, and where, therefore, risk mitigation action would be most valuable and what other responses might be needed in addition to, or in lieu of, the ability to undertake risk mitigation.

The final leg in our engagement with the industry bodies and with the insurers themselves is putting a very strong expectation that they are transparent about the drivers of premium increases, which comprise really the assessment of the risk in terms of frequency and severity; other costs and external factors that are driving claims costs like inflation, supply chain issues, reinsurance costs; and that they are reflecting risk mitigation action in the premiums and the way they're pricing cover.

So that's the role that APRA has. We are one of many stakeholders in this place, but ultimately the decisions of insurers about which risks to write and what price they charge for that risk is a matter for the insurers themselves. It's a commercial decision.

Senator McGRATH: Do you do modelling in relation to climate change and the financial risk?

Dr Carmody: I might jump in on that one. At previous forums we've talked a bit about what we call about our climate vulnerability assessment, the CVA. We did an exercise that concluded towards the end of last year, it was basically a two-year piece of work that focused on banks. It involved the five largest banks across the country. It very much focused on looking at two different scenarios for how the future might evolve in terms of both physical and transition risks associated with climate change and what that could mean for the banks' exposures in different sectors and in different geographies.

One of the things that was highlighted by that exercise, and we referred to this in a publication we put out in November last year is that, as banks did their own modelling into the future, a key question was what could they assume about access and affordability of insurance for the collateral of the assets they were lending against 10, 20, 30 years into the future? That really highlighted for us that it is a question that is worth deeper analysis. So we've started doing some scoping work this year, and we're aiming to start this in the next month or so on a more formal basis, to do an exercise looking at insurance affordability into the future and the context of potential different scenarios for how things might evolve.

Through forums like the Hazard Insurance Partnership and other mechanisms—there's a lot of work being done on areas where some of those acute affordability challenges exist today. The point of this modelling exercise that we aim to do with a number of insurers would be to say: 'Can we also get a view on 10, 20, 30 years from now? What might be the sectors or the parts of Australia where some of those acute problems might emerge in the future where we're not seeing them already?' Again, like the banking exercise, I'd anticipate that would probably be something that would take in the order of 18 months to complete, but we're at the early stages of doing that modelling. At this stage, not a lot of modelling has been done on the insurance affordability, but that's a big piece of work we have planned.

Mrs Rowell: I would just add that we will ask the insurers to do the modelling. We won't do the modelling.

Dr Carmody: We essentially set scenarios for them and then they model their portfolios, and we aggregate the results.

Senator McGRATH: In relation to the CVA, there would have been modelling undertaken for that. Are you able to table that to the committee?

Dr Carmody: We can certainly—

Senator McGRATH: I know you've published the report, but I'm talking about the actual models themselves and that data.

Dr Carmody: Similar to the point that Mrs Rowell just made, the way the banking exercise worked is that we provided quite detailed scenarios that were outlined in the publications late last year and a year before that. We gave them the scenarios; they did the modelling on their own portfolios; then we aggregated the results. One of the observations we made in that paper was that this is still an evolving area in terms of modelling techniques. So there was a bit of variation in results across the banks, and our conclusion was that, whilst some of that variation might be due to different portfolio exposures, quite a bit of that variation would be an artefact of different

modelling techniques and modelling approaches. There's definitely a variation in models out there, but the modelling was done by the banks themselves. So we don't have the models themselves.

Senator McGRATH: I'll put some questions on notice. In relation to your statement, Mr Lonsdale, that you tabled, on page 2 you said, 'APRA continues to tackle key issues in insurance availability and affordability,' and on page 33 of your annual report 2021-22, you said similar things:

There are no simple solutions to this issue but achieving an appropriate balance between the financial health of insurers and access to affordable and well-designed insurance for policyholders is of great importance for the Australian community.

In relation to those statements, how do you plan on doing that?

Unidentified speaker: It's very difficult.

Mrs Rowell: We're working with government stakeholders, and we're engaged in the Hazards Insurance Partnership discussions. We're working with the ABS, the Australian climate centre and others to pool information, data and evidence to get an understanding of the problem, as I said in my response to your initial question. So there is no simple solution here, and it is very much a case of the regulators, the industry and the government stakeholders at all levels—federal, state and local—actually working together to share information and insights and come up with ways in which we can get ahead of the change in risk that we expect to happen over the coming period.

Mr Lonsdale: It's an example of an issue that APRA does not own completely. It's an issue that APRA is leaning into very much to get a collaborative set of solutions, so I think it does very much go to leadership in the organisation.

CHAIR: I'm advised that senators have a limited number of additional questions, so I'm going to do a few strict five-minute blocks.

Senator ROBERTS: I'm going to go to APRA's Service Charter, which says under 'Transparency and accountability', 'Transparency is critical in APRA being held accountable for the outcomes it achieves.' When your charter says 'held accountable', by whom is it held accountable?

Mr Lonsdale: We are ultimately accountable to the Australian community, and we have a number of mechanisms to try and ensure that that happens. Here is one of them. We're appearing before three parliamentary inquiries this week alone. We put out a lot of publications. We try to transmit our—

Senator ROBERTS: Do you have any direct responsibilities to the minister?

Mr Lonsdale: Sorry?

Senator ROBERTS: Do you have any direct responsibilities to the minister? Are you accountable?

Mr Lonsdale: We are an independent agency. The government has in the past provided us with a statement of expectations, and that sets out the government's view within the parliamentary mandate on the issues that they think are important. So our charter is governed by the law and by the law that parliament passes.

Senator ROBERTS: Minister, can you make a direction to APRA to do or not do a thing, provided your request is in accordance with enabling legislation?

Senator Gallagher: I can't, no. I'm not sure whether the Assistant Treasurer has powers under the act.

Unidentified speaker: The Treasurer can.

Senator ROBERTS: In APRA's Service Charter under 'Resolution', relating to operation of the bank guarantee element of the Financial Claims Scheme, it says that 'APRA will return eligible deposits of up to a total of \$250,000 per account holder to customers of ADIs'. All of the conversation around the bank deposit guarantee scheme so far is that it will guarantee the first \$250,000 of every bank account; not 'up to'. 'Up to' could be \$10. Does the bank guarantee scheme cover the first \$250,000 or not?

Mr Lonsdale: Yes, it does. It covers \$250,000 per account holder per institution. The last time I looked that was around 96 per cent of depositors by number.

Senator ROBERTS: By number, which is significant. Your guarantee says per account holder, in total, not per account. If I have three accounts, would the guarantee cover \$250,000 or some part of \$250,000?

Mr Lonsdale: It's per account, per institution.

Senator ROBERTS: Per account and per institution—so the whole \$750,000 would be covered?

Mr Lonsdale: Per account, per institution.

Senator ROBERTS: So the whole \$750,000?

Mr Lonsdale: Senator, in a very specific issue around depositor guarantee, it is hard to have the conversation without recognising that the Financial Claims Scheme is really the last resort scheme. As I outlined to Senator Hume, there is a lot of armour plating that goes around the prudential system, whether you're talking about high capital, high liquidity, credit standards, operational risk. If something were to go through that armour plating, we then have recovery and resolution planning. Every bank and institution is required to have not just a conceptual but a practical plan to make sure that they can get that institution up and running again, before we even talk about liabilities or depositors. If that were to fail, then I think we're in the realm of protecting depositors and the Financial Claims Scheme.

Senator ROBERTS: If we get into that realm and I have three accounts, each for \$250,000, would the \$750,000 be covered?

Mr Lonsdale: If you have those with separate institutions, the answer would be yes.

Senator ROBERTS: Not with the same institution—per account holder, per institution.

Mr Lonsdale: Per account holder, per institution.

Senator ROBERTS: Take this on notice if you have to, or if not answer it now: can you define an eligible deposit by providing a specific list of account types—cheque, savings, superannuation, small business?

Mr Lonsdale: I'll have to come back to you. I'll try to be precise with the answer.

Senator BROCKMAN: I'll try and get through these quickly. If it's a long answer, please take it on notice so I can get through as much as I possibly can. Are you aware of the situation currently confronting Argis, which is one of the largest purpose-built underwriting agencies for regional farming properties?

Mr Lonsdale: I am not. I'll just check with my colleagues. No, we are not.

Senator BROCKMAN: They basically stopped underwriting insurance services to farmers. It's one of the largest in the country. On notice, can you have a look at that issue within your charter and see if there's a systemic issue there that APRA should be aware of and be perhaps dealing with? I've heard that in other industries there are problems with accessing underwriting services, and to see one of the largest farm underwriting services effectively stop offering new business is of some concern, I think.

Mr Lonsdale: I'm very happy to take it on notice.

Senator BROCKMAN: Last year you issued a release about a letter you had written to life insurers related to the experience of large premium increases for existing clients. Life insurers were required to report to ASIC of their finding. Have you published anything as a result of that exercise? Are you planning to? And if not, could I again, perhaps on notice, get a summary of your findings?

Mrs Smith: My understanding is we haven't published anything yet. I'll need to take it on notice in terms of the timing of receiving anything back.

Senator BROCKMAN: Are you planning to publish anything? Do you know how you'll deal with the information you've received? Is it going to be an internal matter? Is it going to be reported to the government? Is it going to be public?

Mrs Smith: I'll take it on notice as well.

Senator BROCKMAN: On 1 October 2021 the individual disability income insurance market was fundamentally changed. This was a response to a period of significant losses by life insurance companies. The new regime has been in place now for a little while. Can you talk about the impact of the intervention in terms of profitability of life insurance, impact on new business being written and the extent to which clients have been moved from legacy products into new products?

Mrs Smith: As we've talked about on the general insurance space, affordable insurance is a really important part of the insurance industry. The intervention into the individual disability insurance sector by APRA was an important one, as we saw the fundamentals of that market change, where the nature of products that were being offered were generous in terms of the terms but the cost of insurance was a challenge. We've seen insurers respond to APRA's intervention there in terms of the new products that they are looking at. That work did apply to new products that insurers were offering. There is still an issue there in terms of the cost and affordability of insurance in that market. What's really important is that we have an ongoing availability of insurance products for people, and that is a fine balance in terms of the generosity of the terms and the cost of that insurance.

I haven't got any information that I could share with you today in terms of the number of people that are still in other products as opposed to new products, but, as insurers look at the profitability of different product lines, there will always be a trade-off in terms of the premiums that are charged and the benefits there. So, ultimately,

consumers will need to make a choice as to the level of cover that they get, through those products that they're holding.

Senator BROCKMAN: This is my last question, Chair. Noting that I've had reported to me the issue of heavy discounting—which might sound good at first blush to consumers but obviously does have other impacts through the industry—and also older people being locked into legacy products and being unable to shift, what's your general assessment of the current state of the life insurance industry?

Mrs Smith: I think we've raised a lot of those issues that you're talking about with the life insurance industry. We're looking at product sustainability. It's not ideal when consumers take on a product at a very discounted price only to be hit by an inflationary lift-up. We've raised those practices with insurers. Insurers are very aware of the risks of doing that and the potential harm to consumers. So I think the issues you raise are very important. They're real for consumers because protection is what is valued, and we'll continue to look at individual practices by individual insurers through our supervisory work.

CHAIR: Senator Smith.

Senator DEAN SMITH: In your opening statement and in evidence to other senators, you've talked about the exemptions to loan policies that exist, and you used the words 'close monitoring' in your opening statement. What can you tell us about the character or value of loans that are being issued with exemptions attached to them?

Mr Lonsdale: I'll check if Ms Roberts has anything to add, but, broadly, as I said, these are exceptions to the rule. They are roughly maybe three per cent of loans written. They would typically, I think, be loans that maybe just failed the net surplus test. A bank will look at your income and expenses and your ability to fund the loan with the interest rate and the buffer on top and do a calculation. That calculation should be positive. So maybe they've just marginally failed that. But, when you look at a person's track record on how they have made payments in the past and what they've done, it looks very good. So the bank makes an assessment: 'This is a good risk to take, and we'll write the loan.' But it is very much an exception.

Ms Roberts: The only thing I would add is that we expect banks to be prudent, and so we would also expect that they would have a risk appetite as to how many of these exceptions they would grant. Conversations with the banks over recent weeks is that for refinancers, for example, the appetite is that around six to seven per cent of the flow would go up to have an exception. We'd like to see that it stays there, and we would monitor it closely. Other things we look at are debt-to-income ratios and also the quality of these exceptions. We would expect them to be prudent and stay within their appetite.

Senator DEAN SMITH: I suppose what I was looking for was an understanding of whether these are average loans. Is it an average size of a loan, or is it at the higher end? Are they higher income earners, where they might have an established relationship with a lender and, as a result of that, the lender is more confident about the certain risk? Or is it that the bank might want to maintain market share, to maintain a relationship with a newer client? I was trying to get an indication of where this three per cent is—low-value loans, high-value loans—or if that data is not available.

Mr Lonsdale: These exceptions are reported to us. I'm happy to take it on notice and see whether we can come back with a little bit more granularity around the categories.

Senator DEAN SMITH: I'd appreciate that.

Ms Roberts: The only thing I would add is that, as Mr Lonsdale said earlier, we're seeing refinances—that is from one bank to another bank—at one per cent of the total loan value, the highest in 20 years. Competition is fierce. Your second point, around banks wanting market share and/or attracting customers from other banks, is alive, as is the retention of good customers. Banks are also working very, very hard to retain those customers that they want to retain as well. I would say that it's an 'and' in terms of your comments.

Senator DEAN SMITH: Looking to the medium term, do you expect that three per cent figure to increase? Do you expect that the use of exceptions might increase as we've got this refinancing activity happening?

Mr Lonsdale: No, we're not. By its nature, it's an exception. It's not a new rule. The rule is that we've got a serviceability buffer of three per cent. To make sure that we do not have creep on the exceptions—because we think there's a very important prudential reason why we've got a buffer for the risks that I talked about—we will provide a reminder to our regulated entities, through maybe a letter, soon, reiterating not a new policy but what the existing policy is and what we expect.

Senator DEAN SMITH: Do you also monitor where that three per cent is? Do you keep an eye on whether a regulated entity might start to have a higher proportion, might start to use the exemptions disproportionately?

Mr Lonsdale: Absolutely.

Senator DEAN SMITH: Is there anything you can share about the consistency or lumpiness of that three per cent, in terms of regulated entities?

Mr Lonsdale: We try to make sure that we don't get to the lumpy part. When we get to the 'we're seeing something unusual' part, there would be supervisory intervention.

Senator DEAN SMITH: Has there been any supervisory intervention in the last 12 months?

Mr Lonsdale: There is constant supervisory intervention, including on this issue.

Senator DEAN SMITH: On notice, can you provide some more granularity around that supervisory intervention over the last 12 months?

Mr Lonsdale: I'm very happy to.

CHAIR: Thank you very much, Mr Lonsdale and the representatives of APRA. We appreciate you answering our questions. You go with our thanks.

Proceedings suspended from 12:33 to 13:37

Australian Competition and Consumer Commission

CHAIR: We welcome the Australian Competition and Consumer Commission and its representatives. Welcome, Ms Cass-Gottlieb. It's great to have you back. Do you have an opening statement that you wish to give?

Ms Cass-Gottlieb: I do. I'll be quick. Thank you very much.

CHAIR: Please go ahead.

Ms Cass-Gottlieb: Good afternoon to you and to the other senators. We're very happy to be here before you again. I would like to acknowledge the Ngunnawal people, the traditional owners and custodians of the land where the Australian parliament sits. I pay my respects to them, their culture, and their elders past, present and emerging.

Since we last appeared before this committee in February, there have been a number of significant developments for our agency. I only want to look at two of those in brief. In the federal budget, the government announced the establishment of a National Anti-Scam Centre, to be brought together and led by the ACCC. Combating scams continues to be a key priority for the ACCC and manifestly of great importance to the Australian public, who, as noted in the ACCC's recent *Targeting scams* report, have suffered losses of over \$3.1 billion to scams.

The National Anti-Scam Centre will function as a virtual centre, bringing together the best expertise and resources across government agencies, law enforcement and the private sector, including particularly telecommunications companies, digital platforms and banks, to disrupt scammers making contact with Australians, raise consumer awareness about the nature of scams and how to avoid them and link scam victims to services where they've lost money or had their identity compromised.

Critically, the first phase of this program will involve a substantial technology build to create the necessary infrastructure to enable the centre to receive a report of a scam from any institution, whether within government or in the private sector, or an individual and to centralise and capture this intelligence. Then the build is intended to allow, in near real time, high-frequency distribution of that data to those who need it most, such as banks to freeze an account, to telecommunications companies to block a call or to digital platforms to promptly take down a website or account of a scam. It will enable the NASC to analyse and act on trends sourced from this data to better inform all of our activities together, in order to disrupt scams and help raise community awareness. Finally and most importantly, it will enable the NASC to refer members of the public who are victims of scams to appropriate organisations for specialist assistance. The work of the centre will be greatly assisted by the establishment of enforceable industry codes with coverage and teeth.

The second development I wanted to look to is that on 2 April this year we released our sixth report in the digital platform services inquiry, which reported on social media services. It looked at both competition between such services in Australia and also how consumers and businesses interact with those services: consumers, for wide sets of information connection, communication, and entertainment purposes and needs; and businesses, very specifically, to advertise. We obtained data that approximately 85 per cent of small businesses first started their advertising when they were a start-up and growing on social media, specifically on Meta platforms. The report highlighted a range of harms to consumers and small businesses, which links into scams here, across social media services, including excessive data collection practices, a lack of effective dispute resolution options, the prevalence of scams and increasing losses to scams on social media services, the lack of transparency for advertisers, and inadequate disclosure of sponsored content by influencers and brands.

We believe these harms reinforce the need for reforms to safeguard consumers and small businesses, as recommended in our fifth report of the digital platform services inquiry. We continue to support an economy-wide ban on unfair trading practices, whether online or offline, that are not currently covered by the Australian Consumer Law. In addition, we have focused on targeted measures, which we consider will be particularly important and necessary in order to further protect against scams.

A notice and action mechanism would require a platform, when a user reports a scam, a fake review or a harmful app, to take action in response and report on the action it has taken in response. We consider it necessary for there to be a requirement for platforms to verify certain business users, particularly advertisers and sellers, to minimise scam accounts, scam sellers and scam advertisements appearing on their platforms. And, in particular, there should be additional verification of advertisers of financial services and products, recognising that \$1.5 billion of the \$3 billion was from investment scams. And we want public reporting on the mitigation efforts by the platforms. We look forward to questions from senators.

CHAIR: Thank you very much for those opening remarks. We'll proceed now to questions, and I'll go to Senator Hume.

Senator HUME: Can I clarify the statistics you gave us there. Did you say \$1.5 billion of the \$3.1 billion in scams was from financial product scams?

Ms Cass-Gottlieb: Investment scams.

Senator HUME: Thank you. The National Anti-Scam Centre sounds intriguing. I'm just wondering if you could give us some specific examples and walk us through exactly how it would work. Say my mother gets scammed by somebody that tells her that a fake delivery is coming her way. She presses on the link and—I don't know what happens next. How does that report go to you, and then how do each of the steps in the process work?

Ms Cass-Gottlieb: Currently, we have a process which is a more manual process. It involves either people phoning our info centre or coming to us online and filling out a template, in effect, to report; or, unfortunately, people first reporting it when they speak to their bank, when the money has probably already gone. What we are looking to with the technology rollout—and \$44 million of the \$58 million to the ACCC will be spent on the technology rollout—is to build a platform. The platform will enable a technology platform connection, firstly, such that your mother, if she does get notice of that—

Senator HUME: She's like a scam magnet, so I don't mind using her!

Ms Cass-Gottlieb: I'm sorry for her, but she's probably telling many people, in her family, and friends, what to watch out for, which is very helpful, actually, because part of this is to get us all to talk to each other about it. She will be able to go online and enter data that, as soon as she has entered it, in near real time, it will be disseminated to law enforcement, to the regulators—ASIC, ACMA, us, other agencies who have a relationship with it—but also through APIs that are connecting the ACCC together with the banks, the telecommunications companies and the platforms. What we are hoping, if it is in conjunction with requirements for those private-sector bodies to take action, that the digital platforms will then need to look at it and take down the scam if she has seen it on a digital platform. The banks will be alert to it, and alert to it for their customers if they get reports from their customers so that each will be able to take action. If it has come to her phone, and she has then given her phone number, if she can see the number of the phone call that is coming to her, the telco will be able to register that as a scam number. All of that can now happen, whereas currently we almost are relying on manual, ad hoc communications with each other. Now it will happen in near real time. That is the objective.

Now, after that, the objective of the platform is that it will hold that data, analyse the data, learn from the data, and we will share the analysis across government and private sector. This is, in this model, a cooperative model across government and the private sector to bring the best expertise and each of the participants within government and privately who have a role to play in order to take action to improve our analysis of this, to respond as fast as possible but also to then give better education to consumers of all ages so that consumers stop, think carefully, don't get taken in and can protect themselves.

Senator HUME: Okay. So it's not actually a national centre like, say, the Space Agency is, that's all under one roof. This is a disseminated model?

Ms Cass-Gottlieb: It is a disseminated model, but in governance we will also come together. So we will have an advisory board that includes private sector bodies that are committed to disrupting scams and fighting scams. It will also have a regulatory committee that will include each of the regulators who have exposure to this and different initiatives, and the government funded a number of us—ACMA and ASIC as well as us. Through the governance model, it will also come together to include each of the agencies. We're calling it a virtual centre. It's

occurring through the technology connections in a distributed way, but it will occur through governance processes, which will bring each of the parties together.

I was interested, linguistically, in the background of the term 'fusion cell', and apparently 'fusion cell' first came from the parties across all different sorts of government who got together to fight al-Qaeda for the Obama government. The concept of it is to not worry about form and structure and to bring the most expert participants who can bring the most to bear in a flexible, immediate way. The centre will have more structure in the sense that it will have a governance structure, a decision making structure and a technology platform that will bring everyone together. The fusion cells will work for specific topics. So, for a specific topic, such as an investment scam, it will only be targeted. In time, it will be a working group, and that working group will move to take action specific to that scam in order to identify them and then actually implement them.

Senator HUME: I did hear the Assistant Treasurer use the phrase 'fusion cell', and I hadn't heard that one before, but he also used the phrase 'hit squad'. I don't know whether he was just being colourful—there is a chance of that. What does a hit squad look like?

Ms Cass-Gottlieb: We believe it's another word for a fusion cell. What we're saying is a topic focused expert group will be formed for a particular time frame, and it will have a specific time frame it has to work to.

Senator HUME: So it's not a specifically trained group of people. They already have the skills; it's just a matter of bringing them together.

Ms Cass-Gottlieb: They have the skills. We have a good feel for the cooperating bodies from the private sector and government because we have been having stakeholder meetings. Since we got the seed funding in the October budget, we have been having a wide range of stakeholder meetings with the private sector as well in order to identify who has the expertise and who's currently investing in innovative ways to address scams.

Senator HUME: Where did the model come from? Is it something that you've seen overseas? Was it something the ACCC recommended? Was it something that the minister's office—whether it be the Assistant Treasurer or the communications minister—recommended, or did they work on it together? How did it come about?

Ms Cass-Gottlieb: In part it's informed by the UK approach, which has a fusion cell and a bringing together of appropriate expertise. There has also been a building up over time of engagement between the government agencies and Australian corporates for a while. There are various financial exchanges that we exchange data with already that bring together the banks, principally. So, in a sense, it has been growing over time and it's informed by that.

Senator HUME: What about the headcount? Does it require more people at the ACCC or does it require more people at any of the other agencies?

Ms Cass-Gottlieb: The budget funding does address this. In addition to the funding for the technology platform, we have received funding to cover additional people. Those people will be directed into the technology specification, into supporting fusion cells and into supporting better education and engagement with consumers. We have allocated for that between increased funds.

Senator HUME: There's \$10.9 million there for ACMA to design a new SMS ID register. I know ACMA doesn't fall under you, but do you include that in your ASL count and in your funding envelope?

Ms Cass-Gottlieb: No, we don't. The \$58 million is for the ACCC over three years.

Senator HUME: And the \$17.6 million for ASIC to take down phishing sites—that's separate again?

Ms Cass-Gottlieb: It is. For example, when we send information to ASIC about your mother's scam, if that were on a site and if it were a phishing scam or an investment scam, ASIC would report it to Netcraft under the trial. Netcraft would then go to the relevant platform where it appeared in order to take the steps to have it taken down.

Senator HUME: The Assistant Treasurer said that the national centre—which I'm now picturing very differently: it doesn't have a plaque on it and it isn't in an imposing building or anything like that; it sits within ACCC but it's a distributed model—

Ms Cass-Gottlieb: Yes.

Senator HUME: The Assistant Treasurer said the national centre will open in July. Is that right?

Ms Cass-Gottlieb: Yes. We're working very hard.

Senator HUME: And it will be fully staffed by when?

Ms Cass-Gottlieb: We already have a team that is a Scamwatch team, and we are looking at additional recruitment, but our current team, which we have also moved from other parts of the agency, will be ready to launch on 1 July.

Senator HUME: So Scamwatch will be no more from 1 July? It'll be the new national centre?

Ms Cass-Gottlieb: We will create a new face and brand so that the national centre will represent across government and across the private sector, yes.

Senator HUME: I'll just ask a couple of very quick questions about the digital platform scams that you also mentioned. You recommended 'mandatory internal dispute resolution standards that ensure accessibility'. Does that sound right?

Ms Cass-Gottlieb: It does.

Senator HUME: Where's that up to? It was to 'ensure accessibility, timeliness, accountability, the ability to escalate to a human representative and transparency'. How far along the process are we? Has the government done this?

Ms Cass-Gottlieb: Treasury has concluded consultation and it's being considered.

Senator HUME: You also recommended:

Ensuring consumers and small business have access to an independent external Digital Ombuds Scheme.

Ms Cass-Gottlieb: Yes.

Senator HUME: How far through are we on that one?

Ms Cass-Gottlieb: That is also being considered. The TIO did express interest in performing that role if government thinks that appropriate.

Senator HUME: Do you need the work on digital scams to work at the same pace as telcos and mobile scams, or is it okay to have them working at different paces?

Ms Cass-Gottlieb: We wish them to work at the same pace because scammers are like water: they flow to where there's a gap.

Senator HUME: But that's not the case at the moment. Have you put in a request to government to move quicker on digital scams, for instance? What advice, I should ask, have you given government on this?

Ms Cass-Gottlieb: We are engaging to support consideration of the question.

Senator HUME: Do you know how much more consultation is going to be required?

Ms Cass-Gottlieb: No.

Senator HUME: What about the industry code? There was an industry code recommendation aimed at banks, telcos and big social media platforms that are liable for people's losses from scams. Is that something that has progressed?

Ms Cass-Gottlieb: In discussions in relation to scams, we envisage that there should be mandatory obligations in relation to the take-down of scams across the range of relevant channels by which scams meet potential victims. We consider they should be mandatory rather than self-regulatory. We know that the Assistant Treasurer has been clear in discussing that there should be firm standards that must be met. I think it is still to be addressed and to be worked through whether they will be separate for platforms, telecommunications and banks, for instance, or whether there will be a universal one with some specific application to the different channels. That work needs to be done. But we are recommending strongly that there be mandatory requirements rather than leaving it to be voluntary.

Senator HUME: From the Assistant Treasurer's language, it does sound like this first iteration of the code is more about setting industry expectations rather than firm standards with teeth. Is that a problem?

Ms Cass-Gottlieb: Our experience is that some parts of industry have moved much more quickly than others and that as long as we leave it that some choose to not meet the same standards, we put more potential victims at risk. So it is our recommendation that these obligations be mandatory.

Senator HUME: Obviously, there's some crossover here between the Assistant Treasurer and the communications minister's role. Is the Assistant Treasurer or the communications minister the lead on digital scams and the work done on the code, and potentially also on the appointment of an ombudsman?

Ms Cass-Gottlieb: We have been working most closely with the Assistant Treasurer in relation to the development of the National Anti-Scam Centre. We do have consultation with the communications minister in

relation to telecommunications and the regulation of digital platforms, in addition. It is not unusual to have some overlapping of such policy responsibility, and we seek to work fully and effectively with each.

Senator HUME: What's the overlap with the Telecommunications Industry Ombudsman in this space?

Ms Cass-Gottlieb: In relation to the ombudsman—I will check here—my assumption is that that is sitting within the department of communications.

Mr Gregson: That's right. The TIO sits within the department of communications' responsibilities. It is an ombudsman, as you know, funded by industry. Their role here is obviously to deal with billing disputes, but they have, as Ms Cass-Gottlieb mentioned, shown an interest if there were to be an ombudsman in relation to digital scams.

Senator HUME: Do we know what the plan or the time line is to sort that out, or is that going to become apparent when the code becomes settled and the consultation is over?

Ms Cass-Gottlieb: These are matters, I think, to be determined by government.

Senator HUME: Can you just give me an indication of which is more pervasive—scams on telco platforms or scams on digital platforms, like social media?

Ms Cass-Gottlieb: At the moment, it will still be on telco platforms. However, it's growing rapidly on digital platforms.

Senator HUME: So there's a level of urgency that's attached to this. Okay, thank you.

CHAIR: Senator McKim.

Senator McKIM: Good afternoon, folks. Thanks very much for coming in today. Ms Cass-Gottlieb, I want to start by asking a couple of questions about market concentration in the supermarket sector. Your predecessor, Mr Sims, said recently that he thinks it's likely that the big supermarkets in Australia have used their market power to increase prices higher than necessary. He said:

... at a time of general concern about rising prices, they can increase prices a little bit more.

He said:

They've only got to watch each other rather than anybody else because the two are so dominant.

I take that to be an observation about market concentration in the supermarket sector. Would you agree in broad terms with Mr Sims?

Ms Cass-Gottlieb: Firstly, the ACCC are very aware—and we have put in a submission to the House committee that's looking at economic dynamism—of work, including work within Treasury, that has shown a correlation between industries with higher concentration and higher mark-ups. So we can see that data analysis is showing that correlation and, therefore, it is an area to be watched. In addition, in applying usual economic analysis looking at matters, where you have less competition is generally accompanied by less competition on price and therefore the capacity for there to be higher prices.

The supermarket sector is one we're watching closely in that perspective. Last week we announced opposition to the proposed acquisition by Woolworths of the Karabar independent supermarket, referencing concern about high concentration and also other aspects reflecting lessening of competition for consumers in the relevant local area. So we do absolutely share concerns and it is part of what informs us in looking at the sectors that we're monitoring and also is part of consideration. Of course we have to test and look at the evidence in each matter, but we are conscious of the level of concentration in the supermarket sector.

Senator McKIM: Thank you. The indefatigable Professor Fels recently said to the House Standing Committee on Economics that a monopoly is often associated with bad outcomes and most often high prices. I take from your previous comments that you'd agree with that.

Ms Cass-Gottlieb: There is the capacity for that. There is some economic analysis that also says that monopolies can at times in effect reduce where they take margins and use the capacity through the supply chain to earn in other areas or to invest in other areas. They have total control over it, in other words. But, yes, definitely one of the aspects they have the capacity to do is to increase prices.

Senator McKIM: The supermarket sector is actually a duopoly, not a monopoly. Would you agree with that?

Ms Cass-Gottlieb: In large part, yes. ALDI has grown and has been effective. The Metcash supported independent sector offers many local areas important competition.

Senator McKIM: Would you agree that Coles and Woolworths's market power makes it easier for them to increase food prices?

Ms Cass-Gottlieb: Consistent with the capacity of concentrated sectors to have higher mark-ups, there is a capacity to do so. When we ask what has been occurring more recently in terms of increased prices there have also been significant supply chain shocks from both geopolitical factors and serious climate change induced weather problems, so there is a range of factors. However, in a more competitive market you may see those elements competed away.

Senator McKIM: I'll just be clear that none of my line of questioning should be taken to contradict your supply-side observations, including your observations on weather and climate—I absolutely accept that—but, all other things being equal, would you accept the proposition that the market power of the supermarket duopoly in Australia does make it easier for them to increase food prices?

Ms Cass-Gottlieb: What I would accept is that there is less constraint on them in a price competition than we would want to see.

Senator McKIM: Including for food prices?

Ms Cass-Gottlieb: Yes.

Senator McKIM: Conversely, to state it the other way, if Coles and Woolworths had less market power, do you think food prices would be lower than they otherwise would be?

Ms Cass-Gottlieb: Under usual economic competition analysis, yes.

Senator McKIM: You have recently picked up where Mr Sims left off in calling for merger reform.

Ms Cass-Gottlieb: Yes.

Senator McKIM: Thank you for that. I think that's terrific. It would certainly help stop further market concentration. But there's already significant market concentration in the supermarket sector, so are there other reforms that you would like to see to enable the ACCC to better regulate the market power of the supermarket duopoly?

Ms Cass-Gottlieb: Most important, as we see it, is the merger reforms, particularly the combination of mandatory and suspensory, so that we must be notified and have a specific period of time, including required information up-front, which allows us to properly conduct our assessment; and in addition, to have specific recognition of factors such as what are often referred to as creeping acquisitions, which is relevant here in the supermarket sector, of requiring one-off, single acquisitions which then together mean that there has been a significant reduction in competition. So including those factors; in addition, obliging the ACCC and other judicial decision-makers to be satisfied there is no likely substantial lessening of competition. That puts the onus on the decision-makers in the public interest to be satisfied the transaction does not have that effect, rather than our current situation where we have to, in effect, prove that there will be a substantial lessening of competition.

Senator McKIM: I completely accept that proposition. Professor Fels said to the House Economics Committee a couple of weeks ago in the evidence that I referred to previously: 'Turning to Economics 1.01, the first thing you would think of is some kind of divestiture power to break up monopolies.' Should the ACCC have divestiture powers?

Ms Cass-Gottlieb: I think the real question there is, would the court have that power? Which the ACCC would then take to court, where the ACCC had proven a contravention, which would be our common law structure.

Senator McKIM: I will refine the question along those lines.

Ms Cass-Gottlieb: In a situation where Australia faces a number of quite significantly concentrated markets, it would be a worthwhile power for a court to consider in matters where the contravention had been proved and the ACCC was able to prove to the court's satisfaction that it was a warranted remedy.

Senator McKIM: If that power did exist, do you think in the context of supermarkets in Australia that that could potentially lead to lower prices for things like food?

Ms Cass-Gottlieb: Where there would be stronger competition, yes. I wouldn't want to set up expectations in a situation of these supply-side shocks that there would necessarily be particular levels of such decreases, because it is quite a complex situation that is currently being faced.

Senator McKIM: As I said, I completely accept that proposition. Just to be clear, I'm not arguing that the market power is the only factor at play here. You have quite rightly pointed out some of the other factors, and those are beyond question from where I sit. I have quoted Professor Fels twice and I'm going to quote him once more. He said this in respect of competition law: 'There is nothing about price regulation of monopolies'. Should there be a power to regulate prices in situations of the concentrated market power?

Ms Cass-Gottlieb: The sorts of interventions that the ACCC has proposed in relation to concentration of market power have generally been other sorts of responses, such as effective access regimes to enable other participants to access necessary infrastructure to supply services on the platform of a monopolist so as to use the market and entry of others to compete. The ACCC does have current roles, particularly in relation to the NBN, for instance, or in relation to certain rail services, where we are setting prices where there are natural monopolies or other reasons why there is a monopoly. Generally it is in circumstances where it is a service at a particular level in a supply chain which then facilitates other competition. It is an area of regulatory price-setting, or cost-setting, which we take very seriously.

So we do currently have that role and we are charged with that responsibility in relation to certain sectors. We do pause at considering that we would be doing that across many, many sectors of the economy. It is an intensive role, which is why we have sought to propose a more effective access regime to try to bring new market participants in who would invest and actually bring the benefits of competition and greater choice and better services and better products, rather than relying upon a regulatory solution alone.

Senator McKIM: Food prices are currently increasing faster than CPI. As we've previously covered, I completely accept that there are a range of drivers of this. But has the ACCC looked at whether market concentration in the supermarket sector is contributing to that situation?

Ms Cass-Gottlieb: We have not done that analysis. We have been receiving communications and complaints from consumers about pricing—

Senator McKIM: Of food?

Ms Cass-Gottlieb: Of food, not totally across Coles and Woolworth; across Aldi, across independent supermarkets, across specialty store retailers. We have been investigating those. We think that not all of them are about our current role, which is misleading and deceptive representations about the reason for pricing or misleading and deceptive representations about 'was/now' purported discount claims. However, there are a number that we think may be of concern to us under our consumer law responsibilities, and we are continuing to investigate those.

Senator McKIM: Is it within the ACCC's statutory capacity to investigate or analyse whether market concentration in the supermarket sector is contributing to the situation where food prices are increasing so much faster than CPI?

Ms Cass-Gottlieb: Currently we do not have any price-setting role there. If we were to be given by the Treasurer a market study to investigate what is occurring in the sector, that would look at costs, prices and profits, as is happening in the retail bank deposit study, for instance, and child care.

Senator McDONALD: Good afternoon, Commissioner. At the last hearing you outlined that Frontier Economics was being contracted to provide advice to the commission on policy and regulatory changes to the east coast gas market. Has this advice been provided to the commission yet?

Ms Cass-Gottlieb: Discussions took place. The advice has not been provided. The approach taken by government, as indicated in the consultation paper on the mandatory code that was released at the end of April, put a different model.

Senator McDONALD: You took a question on notice, QON AET035, on this advice, which asked if you would be able to provide the design elements provided to Frontier. Your answer did not provide this. Considering, as per your answer on 31 March, that the commission engaged Frontier in December 2022, can you please provide those design elements to the committee today?

Senator Gallagher: Do you have that question on notice, sorry? It might be useful if we could see it.

Senator McDONALD: Yes.

Senator Gallagher: Oh, we've got it.

Ms Cass-Gottlieb: It was referencing the design elements in terms of the design elements in the mandatory code. Since that time, the government decision, as set out in the consultation document, is to extend, at the conclusion in December of the emergency interim price cap, the \$12 for a further two years in working as a price anchor. At that time we were still engaged, looking at where the ACCC would be determining a reasonable price, looking at the elements that were in the December one, and it was soon thereafter overtaken by the decision on the new formulation—so it has been superseded.

Senator McDONALD: Given I asked that question prior to that change, I don't want to go through the process of QONs not being answered and then there subsequently being a change. When do you expect that advice to be provided to the commission?

Ms Cass-Gottlieb: We do not currently have a request for this advice standing with Frontier at this time.

Senator McDONALD: So you're not asking for advice on the updated mandatory code?

Ms Cass-Gottlieb: The commission is not requesting that advice, no.

Senator McDONALD: So the commission doesn't consider the changes to the draft code released on 26 April different enough to warrant alternate advice?

Ms Cass-Gottlieb: Because the commission will no longer, at this point in time, unless we are asked to review it by the government—we are not at this time being asked to determine the reasonable price. The reasonable price is being deemed to continue, and we are to enforce, and there is no longer an arbitration mechanism if the government does determine post consideration of the consultation—which was extensive—on the draft mandatory code. Because we are not at this point in time, and, unless we are asked to review the \$12, we're not being asked by government to review what should be the reasonable price, we are not in the process of obtaining advice on a cost basis or any other basis about what a reasonable price should be.

Senator McDONALD: So you feel confident that the commission is knowledgeable enough in this gas market that you don't need independent expert advice on this matter?

Ms Cass-Gottlieb: I'm confident that, because we're no longer being asked at this time—unless in the future the government asks us to—to determine a reasonable price, we don't need that advice at this time.

Senator McDONALD: Does the commission do its own internal modelling or analysis relating to policy decisions around the gas market?

Ms Cass-Gottlieb: The analysis the commission does is the analysis seen in the reports we issue publicly each six months, which identify the prices offered, identify the contract prices and forecast our view on supply, and we use the AEMO forecasts on demand.

Senator McDONALD: Does the commission use analysis or modelling done by the Department of the Treasury, the Department of Industry, Science and Resources and the Department of Climate Change, Energy, the Environment and Water?

Ms Cass-Gottlieb: Yes.

Senator McDONALD: Does the analysis weigh more into some advice than others?

Ms Cass-Gottlieb: We are not at this time—but I will test with Sarah Proudfoot, who is the head of our infrastructure regulation division, if I have this wrong. We do not. We rely upon the data we obtain from industry and the producers in order to obtain the supply information. We also rely upon the analysis done by AEMO; they have a range of third-party data analytical consulting firms who also inform them. We are not, at this time, to my knowledge, relying upon analysis done within government, but I will test that with Sarah.

Ms Proudfoot: Ms Cass-Gottlieb is correct; at the moment we're not doing any modelling. We do, however, work very closely with each of the departments you mentioned and share information as we're able to in terms of different things we're seeing in the market. We have the express powers under our inquiry function which mean we can obtain additional information confidentially from producers, but at the moment we're not modelling anything with those other inputs you mentioned.

Senator McDONALD: Has any advice provided to the department highlighted concerns with having the same body, the ACCC, both creating gas market policy and enforcing gas market policy?

Ms Cass-Gottlieb: It's a good question, and it is a question we always consider—the question about whether we come to monitoring and enforcement with an appropriate objective mind. The role we would say we have performed to date in relation to consideration by the government in relation to emergency price regulation has been to provide advice on the basis of the evidence and data we have collected over many years. We have not made policy decisions or design decisions—they are, appropriately, those of government. Apart from that, we have provided guidance to the industry. We have engaged very closely with the industry. Since we were last before the committee, and I was responding to your concerns and questions in this regard, we have had meetings with ourselves, 44 consultation meetings across producers and users, and additional ones which were in conjunction with the DQ consultation on the mandatory code.

Senator McDONALD: Have industry groups or external stakeholders highlighted any concerns with the commission being the same body writing policy and conducting competition and enforcement operations?

Ms Cass-Gottlieb: Not that I'm aware, but I have not had an opportunity to read every submission that was given to the DQ consultation. Possibly it was raised there; I'm not aware of it.

Senator McDONALD: Could I ask you to take on notice that question, of whether industry groups or external stakeholders have highlighted any concerns with the commission being the same body writing policy and conducting competition and enforcement operations, please.

Ms Cass-Gottlieb: I will. I would just say that I don't consider we've written policy.

Senator McDONALD: You don't consider you've written policy?

Ms Cass-Gottlieb: No. The policymaker is the government.

Senator McDONALD: I appreciate what you're saying; I should say 'providing advice on the development of policy'. Thank you for that correction.

On page 86 of Budget Paper No. 2, you state that the commission will receive \$14.7 million across five years and an additional \$2.7 million in ongoing funding for administration and enforcement. Is this funding part of the \$1.5 billion Energy Price Relief Plan?

Ms Cass-Gottlieb: I don't believe so, but I'm sure Senator Gallagher, the minister, will want to answer that.

Senator McDONALD: Minister, could you clarify that, please?

Senator Gallagher: Sorry, I missed that one.

Senator McDONALD: I said: is the \$14.7 million across five years and the \$2.7 million in ongoing funding for admin and enforcement for the ACCC part of the \$1.5 billion Energy Price Relief Plan?

Senator Gallagher: Can you just show me where it is? What is the page number?

Senator McDONALD: It's on page 86.

Senator Gallagher: So it's part of the Energy Price Relief Plan, yes, which is part of a package of investments. Was your question: is it part of the \$1½ billion?

Senator McDONALD: Yes, that's right.

Senator Gallagher: My understanding is that it's in addition to that. You can see that in the dot point above: there's \$1½ billion over two years to do this. Then we've got it itemised, with \$14.7 million over five years for ACCC, and then an additional \$9.5 million for the AER.

Senator McDONALD: Ms Cass-Gottlieb, could you provide a breakdown of the funding across the forwards, please?

Ms Cass-Gottlieb: I'll turn to my CEO to do that.

Mr Gregson: To clarify, is this in relation to the energy allocations?

Senator McDONALD: No, it's in relation to the \$14.7 million and the \$2.7 million.

Mr Gregson: We might take some of that on notice. When you ask for a breakdown, are you asking for it per year?

Senator McDONALD: Yes.

Mr Gregson: The profile I have here is that there is \$2.1 million for the current year, \$4.1 million for 2023-24, \$3.2 million for 2024-25 and \$2.7 million for 2025-26. I don't have the fifth year, but I think, making up the difference, that will be continuing at \$2.7 million.

Senator McDONALD: Can you provide a breakdown of how the initial \$14.7 million will be spent?

Mr Gregson: Given that's in our current year, we've already undertaken some of that work. I'll throw to Ms Proudfoot to explain where our current resourcing is allocated.

Ms Proudfoot: The funding came from a range of functions that we were picking up, including more frequent reporting to support Minister King's consideration of the ADGSM, the Australian Domestic Gas Security Mechanism. It also included funding for work on enforcing the price cap that's currently in place and moving into the enforcement of the mandatory code. So we have undertaken recruitment to bring in new people to support each of those functions, both the monitoring and the enforcement, and we are in an ongoing process with that.

Senator McDONALD: How many new staff are there?

Ms Proudfoot: I'll take that on notice for the exact figure, but it's around, I think, at least 13.

Senator McDONALD: Yes, could you take that on notice. I'm trying to understand what proportion of funding is being spent on staff. That \$14.7 million is a lot for administration and enforcement, and I'm trying to understand how much is for staff.

Ms Proudfoot: Some would be for staff, and some would be for the monitoring, as I mentioned, and the increased frequency of reporting, which has gone from being six-monthly to three-monthly. There was also, from memory, some allocation in there for external legal support for progressing litigation if we were required to do so.

Senator McDONALD: Can you provide a breakdown of what the \$2.7 million in annual funding will be spent on?

Ms Cass-Gottlieb: Firstly, I will cover the categories in it. The \$14.7 million is across the five years—rather than one year. To take just one example, we are moving now to assess the supply, demand and risk of shortfall quarterly. That means that every quarter we obtain data from every one of the producers. We analytically assess it against the demand. We look at the uncertainties, and we give a report, which is then published, to Minister King in order for her to make a decision on whether to exercise the ADGSM. It's actually quite a significant quantitative analysis. So, while it's administration, it's actually supporting a decision of great significance to be made by the minister as to whether it is necessary to support local consumption and to initiate that power on a quarterly basis.

In addition, we have needed to have a team that was engaging regularly with industry. We produce guidance, we take questions and we finalise guidance. For there to be confidence in the structure and the regulatory framework, we need to monitoring and then reporting on that, which is beneficial.

The other point to add is that the reframing in the mandatory code—if the government does determine to adopt that, and that decision is still to be made but it was put forward in the consultation paper—has entirely removed the commercial arbitration step, shifting to the ACCC as the sole monitor and enforcer. That will be in relation to conduct by both the producers and the users in their negotiations. Therefore, that will cover the full gamut of those conduct requirements on the east coast in order to redress the bargaining power imbalance and information asymmetry between the producers and the users. It is hoped that it will shift to a more transparent and workably effective market. That will rely upon the commission being capable on the monitoring.

Mr Gregson: I can also give you those staff numbers, if you like.

Senator McDONALD: I'm happy for you to provide those on notice, because I will run out of time.

Mr Gregson: I think it's 16.

Senator McDONALD: Thank you. As the initial funding is for the next five years, is it the understanding of the commission that the price cap will remain in place for the next five years?

Ms Cass-Gottlieb: Our understanding is that the consultation paper is expecting there to be a review and that that the review would occur before five years and that, at the point at which the relevant ministers are satisfied that there's a return to achieving a workable competitive market, it would cease.

Senator McDONALD: So, if the price cap were removed, how much funding would the commission require? Considering that this is meant to be a temporary measure, would the funding be required if it were removed?

Ms Cass-Gottlieb: The framework as set out in the consultation paper is that, even at that point—and I think it would be everybody's hope that the market will return to workable competition and not require a price intervention—the conduct requirements will stay in place and the need to continue to monitor the conduct requirements will stay in place.

Senator McDONALD: Minister, would the funding be taken away from the ACCC if the price cap were removed? Assuming the ongoing funding is to be used for monitoring the gas market and the mandatory code, do you think that a requirement would remain for the ACCC to be funded for these additional 16 staff and whatever other—

Senator Gallagher: The decision of government is for it to be ongoing funding to support the resourcing of the ACCC to fulfil the responsibilities that the government has tasked it with.

Ms Cass-Gottlieb: The ADG has said we'll continue. In our January report, 2026, 2027 and 2028 are the years which raise particular concerns as to shortfalls. That's also why the mandatory code has alterations—to seek to provide greater certainty and incentive for more investment in supply.

Senator McDONALD: Terrific.

Senator CADELL: I have questions around the relationship with APRA AMCOS. I believe that from 2020 there was a four-year extension to APRA AMCOS's exclusive rights to negotiate fees on behalf of the recording industry or rights holders. Is that right?

Mr Gregson: We've had past experience with APRA in the context of authorisations. I don't think we've got any current matters before us in relation to that, so we might be a bit limited in our ability to assist you.

Senator CADELL: I think there's one. I think Live Music Australia has got an authorisation for collective bargaining in front of you at the moment.

Mr Gregson: That might be the case. We might just see if—

Ms Reader: We might have to take that one on notice.

Senator CADELL: This might be the shortest questioning in the history of the world. My understanding—and this is just for some context going forward—is that they're up for renewal on 24 April for an extension of their exclusive right to negotiate. Clearly, from this reaction, it doesn't look like that process has started again?

Ms Reader: Not that I'm aware of.

Senator CADELL: Can you take that on notice. There was another matter before where you were seeking an independent third party to review their plain English language for their licence fees at foot. How is that dispute going?

Mr Gregson: My recollection is that that was either a potential condition of authorisation or a matter that was discussed in the context of a determination. Again, I suspect we're going to have to take the current status on notice, unless Ms Reader has anything current on that.

Ms Reader: I'm sorry, I don't.

Senator CADELL: If I could get an update on that on notice, that will be fine. Also on notice, when a body like APRA comes to you for authorisation for extensions—industry, during the cultural policy, pointed out that APRA's retention of earnings equates to some \$80 million to \$90 million not going to artists. ARIA rewards artists—only \$35 million is going to artists. So there is a great deal of retention. Are you able to look at admin caps or anything as a process in your authorisations—or is that outside your remit?—for withholding of funds for administration of these bodies?

Ms Cass-Gottlieb: Perhaps I'll answer in principle and then see if such aspects have previously come before us. The test in order to grant an authorisation is that we need to be satisfied that the public benefits outweigh anticompetitive detriments so that they're sufficient and that they are sufficiently enduring, and also substantive and enduring. In these applications, a key part of the public benefit that is put forward for the collective bargaining structure is that it is a more effective structure in looking at bargaining imbalance for the artists in their negotiations. So it is a relevant question for us, and a relevant question for us to interrogate in order to be satisfied about whether it meets the test.

Mr Gregson: Further to that—I agree with everything Ms Cass-Gottlieb has mentioned—I can confirm that they were relevant issues at the time that we gave the last authorisation in these types of matters. It's often raised. We don't have carte blanche to be able to intervene necessarily, but it's a factor we take it into consideration on a public benefit test.

Senator CADELL: When we talk about market considerations and collective bargaining size for businesses, one of the things coming from regional Australia is a fee set with exclusivity given to APRA/AMCOS. It is very current for regional or city businesses, but where we might have a small dance studio, for instance, that travels to five different venues around regional towns over five different days, APRA/AMCOS has a model that is per-venue thinking: I've got this great big dance studio; not a school hall. So they're having to pay five or six times the licence fees. Could they complain? They haven't got lawyers. What's their action to try and, on the other side, market that imbalance?

Mr Gregson: Certainly, through our authorisation process or, as you're referring to, the potential for a re-authorisation, it's a public process. We call for submissions. You don't need to be a lawyer to make a submission. We also take calls, where that's necessary, to help get that information in a form that's useful to us. But those experiences, again, from memory, on the last occasion, are exactly the type of thing that we took into account, and it was useful.

Senator CADELL: And I think that's what the plain English stuff is coming up with.

Mr Gregson: Indeed.

Senator CADELL: That's all.

CHAIR: I'm going to move now to 10-minute blocks. Senator McKim?

Senator McKIM: We were speaking about the market concentration in the supermarket sector. I want to ask you some similar questions in regard to the big four consulting firms. I will just start by checking whether the ACCC has any contracts with PricewaterhouseCoopers.

Ms Cass-Gottlieb: We have no current contracts with PricewaterhouseCoopers.

Senator McKIM: Big Four consulting firms audit over 90 per cent of the ASX 200. They provide legal and tax advice to many of the same companies that they run audits on. They arrange mergers for companies. They've hollowed out the public service. They poach the best and the brightest, and then they sell their work back to the government at double and more. Has the ACCC looked at the economy-wide effects of PricewaterhouseCoopers, Deloitte, KPMG and EY's unprecedented reach, influence and market concentration?

Ms Cass-Gottlieb: In those general terms, no. I am aware that, from time to time, matters will have come to the commission, for instance where there may be acquisitions by a firm, like for a consulting arm or another aspect that will come in a merger situation. Potentially, it may also come to the commission if there are matters raised about whether there is any conduct of concern, from an anticompetitive conduct aspect. But I don't believe that we have looked at it in a general industry review sense.

Senator McKIM: I'm going to quote Professor Fels again. He wrote in the *AFR* earlier this week that the Big Four consulting firms should be broken up. He said this:

...an audit should play a crucial role in protecting the integrity of markets and...the performance of the audit should not be compromised by potential conflicts of interest...

Would you agree with Professor Fels?

Ms Cass-Gottlieb: The ACCC has not done work that has established an evidentiary base in this regard. ASIC is the regulator in terms of the specific statutory responsibilities of auditors.

Senator McKIM: These questions are in part about competition and market concentration, which obviously falls within your remit. Can I put it this way. Mariana Mazzucato, who I do note was [inaudible] in an approving way by the Treasurer in the recent essay that he's published, which says, 'The Big Four consulting firms have become dominant by facilitating and validating rent extractive economic policy.' He says, 'They themselves are extracting economic rent from both the public and private sectors.' Do you think that's true, and, if it is, is that of concern to the ACCC?

Ms Cass-Gottlieb: Rent seeking is of concern to the ACCC, as is rent seeking that arises from concentration. We have not done the nature of data and factual analysis and evidentiary work. One of our values, apart from being independent and impartial ourselves, is to be expert, to be informed and to make conclusions. They're significant conclusions that are being raised, including by Professor Fels. I would not want to state them unless we had done the work.

Senator McKIM: Thanks. I appreciate that. Is it a valid question for the ACCC to consider whether the Big Four consulting firms are extracting economic rent, whether their concentration of market power is leading to undesirable outcomes and, ultimately, whether they are contributing to the productive capacity of the country or the converse? Would those be valid questions for the ACCC to consider?

Ms Cass-Gottlieb: They are, again, in the nature of questions that the government has the capacity to put to the ACCC in market-study fashion. That is where, if the government has concerns of such a nature, that would be the best way for the government to consider it, rather than to consider it in aspects such as procurement review, which I know the minister is looking at. There may be other, more direct ways to consider those questions.

Senator McKIM: Thank you. The big four are all firms rather than companies—they're not listed companies; they're partnerships. Would that present any particular difficulties or would that change the way that the ACCC might approach that body of work if it were referred? Does it present any particular difficulties for the ACCC in regulating the big four?

Ms Cass-Gottlieb: Fortunately, the changes that were made at the same time as the Hilmer review—the national competition changes to our act—and their entry into national competition code provisions between the states and the Commonwealth enabled the ACCC to apply the anticompetitive conduct powers to forms of business structure beyond corporate forms, including partnerships and individuals who engage in anticompetitive conduct. So we do have powers to undertake such an investigation in that manner.

Senator McKIM: Obviously, one of the philosophies of a market-based economic system is the provision of accurate information. In ASIC's most recent audit inspection report, PwC had a negative inspection rate of 25 per cent, KPMG 30 per cent and Deloitte 29 per cent. EY was a lot lower. The big four are consistently making material mistakes, in something around one in four of their audits. Is that of concern to you—the quality of auditing in Australia and the effect that that might be having on the market receiving accurate information?

Ms Cass-Gottlieb: It is appropriate that ASIC is reviewing this, because the role of auditing in giving confidence in financial markets is very important and it is a key part of ASIC's responsibility. It is not within the jurisdiction or remit of the ACCC.

Senator McKIM: Can I put it in this way, then: if the quality of audit improved, wouldn't that have a positive effect on competition?

Ms Cass-Gottlieb: The quality of audit certainly improves the confidence in multiple market participants across the corporate market and financial markets. I don't immediately see it as affecting the status of competition in markets, actually. The only way I can see it—and it's very hypothetical—would be if an auditor failed to pick up a problem and then a company failed that otherwise wouldn't have failed, therefore leading to an exit. But I don't think it immediately has that effect.

Senator McKIM: Thanks, Ms Cass-Gottlieb.

Senator McDONALD: Commissioner, at the last estimates hearing in February, we discussed guidance that the commission had released regarding the draft mandatory code of conduct for the gas market. Have you updated your guidance to industry, based on the new draft code that was released on 26 April this year?

Ms Cass-Gottlieb: We issued guidance in relation to the interim emergency price order. We have updated that in order to clarify sections in it that, from consultation with industry, we heard had not been sufficiently clear. We have not yet issued or prepared guidance in relation to the code, because the consultation has just concluded and the actual form of the code is not yet concluded. As soon as it is concluded, we will, as reasonably promptly as possible, issue guidance in relation to it.

Senator McDONALD: To clarify, when you mention the updates and further clarifications you've provided, are you referring to the letters that you sent to APPEA in February to forward on to industry?

Ms Cass-Gottlieb: We did that, but we also issued an update into the guideline.

Senator McDONALD: Would you be able to provide a copy of that guidance, please.

Ms Cass-Gottlieb: Yes.

Senator McDONALD: Consultation has just completed. With the changes from the original proposal regarding the reasonable pricing provision, compared to the new price anchor, will there be updated guidance on how this will affect the market and how the commission will regulate this?

Ms Cass-Gottlieb: There will, yes.

Senator McDONALD: When do you expect that will be?

Ms Cass-Gottlieb: That also is a good question. We are waiting for a decision to be made by government in relation to it, and we will then follow it as soon as we can.

Ms Proudfoot: Our team has already started working based on the current draft of the code, but, obviously, until we see the final code, we can't put out guidance [inaudible] for the sector. We are looking. As Ms Cass-Gottlieb said, we've been in close engagement with DCCEEW through the development, but until we have the final code we can't put out the guidance. But the team is very much onto it and looking to get something out as soon as we possibly can.

Senator McDONALD: Thank you. Commissioner, on 26 April 2023, there was a media release put out by the Treasurer and Ministers King, Bowen and Husic saying that the commission will be responsible for enforcing supply commitments and overseeing the regulatory regime. Can you outline how you intend on enforcing gas supply commitments under the code.

Ms Cass-Gottlieb: Firstly, the code has provided for a capacity for exemptions from the price regulation—from the \$12. Those exemptions will apply to small producers, provided that they are fully domestic suppliers. For those larger than small producers, it will require a decision jointly by the Minister for Climate Change and Energy and the Minister for Resources, and those exemptions will be on the basis of new supply commitments to bring on new supply. That is what will be a supply commitment, which I'm sure you know, but I say it just to indicate what it is that we will be monitoring and enforcing. We will then be monitoring the performance of the commitments that have been given by producers in return for being exempted from the price anchor.

Firstly, we do already obtain a lot of information from producers on their contracts and their offers. We will also, in the new code environment, be supplementing the information that we will need to receive in order to ensure that we are properly observing the offering process, the time frame and those aspects that are under the code. We will then review that data against both the conduct commitments and the supply commitments that have been given for exemptions, if and where exemptions are granted. If we have concerns, we will test them with producers, and if we find that the producers are not complying with the commitments that they have given, we will then take action.

Senator McDONALD: And what action will that be? That was my question: how do you intend to enforce these gas supply commitments, which was the commitment given by the Treasurer and Ministers King, Bowen and Husic?

Ms Cass-Gottlieb: There is a three-tier approach to penalties that will apply for breaches of the code. Breaches of supply commitments will sit in the top tier. If we are able to prove to a court that there has been a failure to comply with a supply commitment, we will be able to seek a penalty per contravention, per noncompliance, of the higher of a maximum of \$50 or three times the benefit or 30 per cent of the turnover of the business that has failed to comply.

Senator McDONALD: So, you'll be sending out letters and then follow-up letters of demand—I'm just trying to understand—

Ms Cass-Gottlieb: No, the process would be: firstly, we will have very good surveillance occurring, supplemented to that which we have already, which is pretty extensive. We will see contracts, offers, period of time. We will need specific data to be provided to us, looking at the supply commitments that have been entered into. Depending upon the nature of that supply commitment, we may need to see the plans towards compliance with the supply commitment. The acquitting of the supply commitment—

Senator McDONALD: I don't mean to interrupt—I'm sorry; I have limited time—what I'm really trying to get at is: what mechanisms does the ACCC have to enforce these penalties? Will you need to go through a court process?

Ms Cass-Gottlieb: We will need to go through a court process. And—very quickly—we have the powers available to us that we currently have: compulsory information and document provision, and examination-of-executives powers. So, we can bring executives before us and they must answer under oath. We also have anticircumvention powers in the new part of the Competition and Consumer Act, and if we find evidence of a failure to comply we will commence proceedings in court.

Senator McDONALD: Okay. Yesterday I tabled some prices from the AEMO website. And because we don't have contract data, we have only the spot price market to refer to. The day after assent on the price caps we went from \$12 last December to \$19.30 yesterday, an increase of 61 per cent, while at the same time the US spot price over that same period—12 December to 23 May, because they publish only once a week—has fallen by 66 per cent. And the EU price over the same period has fallen by 81 per cent. Given the ACCC's extensive knowledge of the gas market and the policy advice provided to government, regarding the market intervention over the past six months—the fixed gas prices, the price of sovereign risk, investment certainty, stalling of new projects—is this the same advice that you would give today?

Ms Cass-Gottlieb: I'd like to just carefully step through what the data tells us in relation to prices and absolutely to answer the question. We are observing contract prices and we will report on that in our next report. We don't expect to see contract prices exceeding the cap. In relation to the spot prices, I want to separate what has happened most recently, in the most recent prices, looking at Australia. Firstly, the spot prices were deliberately not included in the government's framing in the price cap. They were left unregulated by the price cap to allow short-term impacts and needs for the market to balance between supply and demand. From December until the end of April, domestic prices in the short-term markets were around \$12 or less. The average was \$10. Now, it was in the short-term markets, in the spot markets in Australia. I will absolutely say to you that some part of that was because there was a downturn; there was an interruption in the capacity of one of the LNG ventures to change the gas into LNG. So they had extra supply, and they supplied extra into the short-term market. However, generally across each of the hubs in the respective east coast states the price was hovering around \$12 or below in the short-term markets. Recently there are a number of reasons why it has gone above. There's been a partial outage at Longford; capacity constraints on the MSP, the Moomba to Sydney Pipeline; a sudden cold snap that has increased demand; and also ending of the outage in that LNG train, so all of that has now gone into LNG. The main point I would make is that it's not indicative of the actual impact of the intervention. It is indicative of what it should be doing, which is allowing the market to meet immediate needs of supply and demand.

The US is not a good comparison, because the US, even at the time we had offers at \$65, was still \$4, because the US is a very large producer of gas and has constrained export capacity, so they just have a well-supplied domestic situation. Europe has definitely come down. We were observing Europe still being higher than the Australian domestic price. Europe, of course, is generally not producing gas, particularly when they're not taking it from Russia. They are now bringing it in through LNG, so they are paying the LNG price. It is still higher than \$12, transferred to the Australian price—and Australian domestic users expect to have Australian domestic cost-reflective prices—but it has significantly come down, because the Europeans have done incredible intervention. They've shut down demand. They've put much more into storage. There has been government intervention quite

effectively. So I don't think that comparison is actually telling us directly what has happened in Australia, because the spot market prices are reflecting immediate impacts, which they should do in order to allow the market to balance. I think that the question that you're asking is to be determined in the medium term.

There is one thing I would add. We have been concerned that there has not been as much offering for new contracts as we would want to see. You're aware we were concerned about whether there would be sufficient supply, which is into the future. We have been concerned, and users have been reporting to the ACCC, and we're meeting with users, but they have not been able—

Senator McDONALD: What about meeting with producers?

CHAIR: Last question, Senator McDonald

Senator McDONALD: I will finish this, and then I'll ask my last question.

Ms Cass-Gottlieb: We have met with them multiple times. We've met more with producers than with users, Senator McKim—McDonald, sorry.

CHAIR: It's an okay mistake to make at this point.

Ms Cass-Gottlieb: Even a different sex, but still. We have met independently 27 times with producers.

Ms Proudfoot: At least 26.

Ms Cass-Gottlieb: At least 26—thank you—and 16 times with DCCEEW. This is in the last four weeks. We are meeting very often with producers. We are strongly in support of the changes to introduce certainty, which are referred to in the framing that the DCCEEW consultation paper has put, in order to enable what we hope to see: a return to greater contracting activity: We are hoping to see that for the benefit of both producers and users.

Senator McDONALD: The feedback that I'm getting from industry is a flight of capital, a concern for investment, a step back—sorry, do you want me to wait till you're ready?

Ms Cass-Gottlieb: Sorry, that was over the past three months, not the past three weeks. Sarah was just making sure I got that right.

Senator McDONALD: I thought that was very busy, but I was being impressed.

Senator Gallagher: It's still impressive over three months.

Senator McDONALD: I'm hearing about a flight of capital, investment uncertainty and projects being delayed or cancelled. That will all lead to supply shortages. You're concerned about supply shortages.

Ms Cass-Gottlieb: We are.

Senator McDONALD: But what are you seeing that would tell the Australian manufacturing market and domestic users and everybody else that there is additional supply coming to market and that this is not going to be an ongoing problem which will mean that we won't see prices fall but, in fact, we'll just see indicators like the spot market continue?

Ms Cass-Gottlieb: The consultation paper has set out that the objective is reasonable domestic prices and sufficient supply, including into the future, and certainty.

Senator McDONALD: I'm sorry to interrupt you. It's not the paper objectives. I'm seeking what feedback you had, from the minimum of 26 consultations over three months, that would indicate to you that there is more supply coming to market that is going to solve your concerns about this.

Ms Cass-Gottlieb: The meetings are confidential, but I'll summarise the aspects at a high level, and it's reflected in the criteria that are applied in the consultation paper—that investors and producers are looking for certainty to be able to invest in the long term, and that users are wishing to have contracts put to them that are long-term contract offers. We believe that the new structure will facilitate this. However, that decision has to be made by government.

Senator McDONALD: I'll finish on this because I don't want to labour the point. I'm seeking some understanding—

CHAIR: I think the chair has answered your question a couple of times.

Senator McDONALD: I don't think the chair has. I think you'll find—

CHAIR: You may not like the answer, Senator McDonald—

Senator McDONALD: when you read the *Hansard*—

CHAIR: but I do believe she has answered your question.

Senator McDONALD: she has not answered the question, and I appreciate that.

CHAIR: Will you finish on this one, Senator McDonald.

Senator McDONALD: We'll talk again at the next estimates.

CHAIR: That does conclude the time that we have with the ACCC. We thank you very much, Chair and team, for being with us today and answering our questions. You go with our thanks. The committee will suspend for a few minutes while the next witnesses come forward.

Proceedings suspended from 15:06 to 15:08

Tax Practitioners Board

CHAIR: We welcome the Tax Practitioners Board. We welcome Mr de Cure, who is the new chair of the Tax Practitioners Board, and congratulate you on your appointment. Thank you for being with us today. You've given us an opening statement. Would you like to address your opening statement?

Mr de Cure: Thank you, Chair. I'm happy to table the statement, but I would like to just read one paragraph, if I may.

CHAIR: Yes, please.

Mr de Cure: In responding to any questions that may arise today, we value transparency, but we are required to balance our commitment to transparency with you—the government and parliament—with wider issues of policy, our obligations to preserve the secrecy of taxpayer information and the privacy of individuals who are not the subject of TPB compliance action. We must also ensure we don't prejudice other investigations that might be currently under consideration. Thank you.

CHAIR: Thank you very much, Mr de Cure. I will go now to Senator O'Neill.

Senator O'NEILL: Good morning or good afternoon—

CHAIR: Estimates morning!

Senator O'NEILL: That is a very good way of putting it, Chair. We are in the blur zone here.

This is the first chance I have say thank you to the Tax Practitioners Board for your response to the questions on notice I put to you in the 15 February estimates session, and I think it's fair to say that your response, although not complete in every way by providing everything we asked for, has provided a real insight into what has now been described as the PwC disaster, frankly. Mr O'Neill, in response to my questions on notice, I'll take you through a little bit of the paperwork that came through. You said that on 2 April the TPB received intelligence regarding Mr Collins. What does that actually mean?

Mr O'Neill: On 2 April the intelligence we received was in the form of a meeting with ATO colleagues. They said a few things to us, essentially that they had copies of PwC documents that suggested unlawful disclosure that related to Mr Collins and his engagement with Treasury, and that the unlawful disclosure may have involved PwC personnel and/or their clients.

Senator O'NEILL: Personal and/or clients?

Mr O'Neill: Yes.

Senator O'NEILL: Thank you, Mr O'Neill. When you had that interaction with the ATO, who was present at that meeting, Mr O'Neill?

Mr O'Neill: I'm not sure.

Senator O'NEILL: Could you take that on notice?

Mr O'Neill: Of course, I could do that.

Senator O'NEILL: Were you in attendance?

Mr O'Neill: Yes.

Senator O'NEILL: Thank you. Going on your recollections of the meeting, the intelligence was a verbal report. Is that correct?

Mr O'Neill: Yes.

Senator O'NEILL: Did you see any documentation at that point in time?

Mr O'Neill: Not that I recall, no.

Senator O'NEILL: From the documents that you've put on the record, I just want to read a couple of these elements into the *Hansard*. Based on what you've just said about the meeting with the ATO, I would ask after I've read these if this is a sample of the kind of thing that you were advised by the ATO was occurring, and, if you had

been, what does that mean? What did they tell you? Is it akin to the things I'm about to put on the record? The first one was one in September 2015—it starts with two blanked names:

...and I are working closely on DPT solutions. Very happily, ... this week is sending out and signing up numerous SoWs to Bay target and clients!

SOWs I believe in that context means statements of work, which is a bid for somebody's business, so you are sending them an outline of the program of work that you are going to offer.

Mr O'Neill: That's my understanding, yes.

Senator O'NEILL: We agree that that is what that means. Did you get any information of that kind at your briefing from the ATO?

Mr O'Neill: I don't have any detailed recollection of that meeting beyond the high-level themes, and I don't have a recollection that we saw particular documents at that time. We may have seen some particular documents, but I don't recall that. As a result of that have meeting, the TPB requested from the ATO some materials, and subsequently we received that material.

Senator O'NEILL: When you say 'we received that material', what are you referring to in the word 'that'?

Mr O'Neill: When I say 'that material', on 2 July the ATO made a formal referral to the TPB in relation to this matter. A referral usually involves perhaps a precis document to say, 'This is what we perceive to be the issue for your investigation,' and they would have provided attached documentation. The details of those attachments I couldn't be sure of, but they probably included documents like the document you've just read out. Of those documents that we provided in response to your questions on notice, some of those documents were sourced from the ATO and some of those documents were sourced from our own investigations, so, in other words, a blend.

Senator O'NEILL: What we have now, in the 144 pages that have been revealed, is all the ATO documents and yours compiled together?

Mr O'Neill: It comprises a blend of ATO documents provided to us and our documents we acquired in our investigation, but it's not the entirety of all the documents we have in this matter.

Senator O'NEILL: How numerous are all the documents you have in this matter?

Mr O'Neill: I'm not sure, but there may be thousands of documents in this matter.

Senator O'NEILL: The 144 pages of emails, is that the complete set of emails, even though you might have documents referring to other things?

Mr O'Neill: No, those documents in the 144 set, if I can call them that, were the documents that we considered to be responsive to the question 'Have we got internal PwC emails that reference or evidence unlawful disclosure?' That's a subset. We have a broader set of documents that include other PwC internal documents or internal emails.

Senator O'NEILL: Thank you. That's very helpful. Let's consider this the 144-page subset, as you've described it. That's quite helpful. At the base of that email I just read into the public record, this was an interaction with the US, which is where we know there was a bid for work from at least 14 and I believe they're sometimes referred to as the dirty 30 who were seeking to avoid paying tax as a multinational in various jurisdictions. At the bottom of the email it says: 'This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding US federal, state or local tax penalties.' It's rather shocking to read that on a document where it's so clearly stated that the information cannot be used in the US jurisdiction in any way that sits outside the law. How is it possible that Australian and international partners in PwC could ignore this writing in black and white in front of them? I ask for your response, Mr O'Neill, because it's quite shocking to me that that's there and it's completely ignored.

Mr O'Neill: I'm afraid I cannot answer for those PwC partners who were involved in the correspondence, but I can offer this: that footer, I understand, is a consistent footer on the bottom of emails or correspondence from PwC US. It's required under US law or it's required under PwC's policies in the US to address some US law. I don't have the specifics of that, but I understand that that's a standard footer across the PwC US correspondence.

Senator O'NEILL: I think it is important that we begin to broaden this out to make sure that it's not just the Australian arm that's involved in this. US staff members of PwC global were involved. They were reading this reminder of the law of their country when they were breaching the conditions I expect they should have been adhering to in their own country as well as here. Is that correct?

Mr O'Neill: Yes. I don't know, but I imagine so.

Senator O'NEILL: We would need to find out from some US people.

Mr O'Neill: Yes.

Senator O'NEILL: There's some discussion that follows that that talks about lists. It's this kind of language:

As you know, we are in the process of identifying clients where a head office conversation in relation to BEPS— that's the international name for making multinationals pay— CbyC, 177DA etc changes would be fruitful. The list is quite long ... The industries that might have problems— with regard to these particular types of legislation— include non-resident Tech/Digital, shipping, virtual retailers, insurers/reinsurers, funds managers, commodity traders, telcos and service providers generally. In addition, ANY inbound commissionaire structure might have a problem. So the field is large, and time is short.

And again there is the footer. And then it goes down and says, in a subsequent email on 20 August 2015 at 1:05am—the name is blacked out:

Understand you're leading TP interface.

TP in this context means transfer pricing?

Mr O'Neill: Correct.

Senator O'NEILL: I went on the Internet and had a bit of a look at that, PwC International and then PwC Australia. The person who's named at the bottom of that is now one of the people who, we understood through media, have stepped aside—Mr Peter Calleja. That's the transfer pricing angle going on here. It says:

... TP interface on US targeting effort on behalf of the broader team—

The broader team being PwC global—

I have enclosed Australian TP client data on our top 30 FY 15 US clients below. I will set up a call with— name redacted—

you and I to discuss client intel and relationship support assistance we can provide.

There's a file attached, then it says:

thanks guys that's helpful & comprehensive—the tp partners/directors will send any relevant background...

What does that mean? Mr and Mrs Normal walking down the street don't get this language, they're not into it. What was going on when this exchange was happening?

Mr O'Neill: Again, I couldn't be sure. I'm interpreting what I read, as are you. My interpretation is this: major accounting firms who work in parts might have one practitioner who's the owner of the client, if you like. They might be the head partner for a particular company or a particular taxpayer. There might be other PwC personnel who are subject matter specialists. You mentioned TP—transfer pricing. There would have been a lot of people in the transfer pricing team at PwC. Then there were people, the authors of those emails, who perhaps are pitching to either the transfer pricing or the head partners to say 'We think your clients in these industries could benefit from our advice in relation to this structure or scheme.' That's my understanding of that email.

Senator O'NEILL: That's what I kind of figured out was the case, not being part of this world myself. It's a glimpse into an underworld of a different kind. The reality is this was a scheme of sufficient scale to have its own name inside PwC, Project North America. The kind of behaviour that we're speaking about is a breach of every ethical standard that a tax practitioner should adhere to—is that correct, Mr O'Neill?

Mr O'Neill: We found that it certainly raised the issues of integrity and breach of confidentiality and breach of conflict of interest. We found those ethical standards in breach, certainly.

Senator O'NEILL: There are a couple of other items here that go to the political process that I am a little more au fait with. This is a report from Mr Collins in August 2015. It says:

There was some more consultation today on s177DA and BEPS more generally.

It then gives an update:

Main questions from clients relate to start date which seems locked in for 1 Jan 16—

Which was confirmed yesterday here, that that did occur—

as originally proposed. Current plan is legislation through Parliament in October and we would expect to see the revised legislation in the meantime.

So it's keeping everyone updated about what the government was doing, from the inside, despite confidentiality. That's the political overlay of what is going on. Then there is this one, of most concern to me with regard to the political process. Mr Collins, in response to a message 're: chat for 5 when you get a moment?', writes:

No worries. Unless—
name redacted—
has a secret deal with—
name redacted—

MAAL will start as planned. Treasury absolutely clear on this today. Worth a quick chat.

'Unless name redacted has a secret deal with name redacted, the legislation will start as planned.' Does that concern you, Mr O'Neill? What do you think that means?

Mr O'Neill: I don't recall that particular document, but I can certainly have a look at that and give you an impression of it. Again, we're taking a second-hand analysis, but it does suggest that Mr Collins is talking with his colleagues about the expected legislative process and the anticipated enactment and date of effect. That information may not be generally known, but it may be subject to some arrangement.

Senator O'NEILL: A deal of some sort.

Mr O'Neill: That's how it's described, I think.

Senator O'NEILL: I'd like to seek to table those documents so people can read the *Hansard* transcript in the context of this information before them. Could I go back to the time line, which seems critical to me. There's a six-month gap between the referral of the matter to the Tax Practitioners Board in July—you said 2 July 2020—and the commencement of an investigation in 2021. Could you help me understand what accounts for that six-month gap?

Mr O'Neill: The Tax Agents Services Act, our legislation, generally requires our investigations to be conducted within a six-month window—from the time we formally start the investigation, and advise the parties, to the end. There are possibilities where that six-month window can be extended in circumstances which are outside of our control. In this case, the TPB's conduct committee did extend the period of investigation for 18 months. With the general rule being six months, when the ATO get a referral, it may not be the case that we start a formal investigation straightaway, but it was the case that we started an informal investigation straightaway. That six months refers to that informal period, what we describe as 'preliminary inquiries'.

Senator O'NEILL: What shape would preliminary inquiries take in that period?

Mr O'Neill: Again, I am not aware of exactly what happened in that period of time, but the usual inquiries of a preliminary nature would look like this: we'd look at the information that was supplied to us from the ATO; we'd look at any other information that we had that was corroborating or developing a thesis; we would look at the ability for us to access material because TPB officers are ATO officers, so we have access to ATO systems so we can look at material on ATO systems that's relevant to our work; and we would be looking at who are the people or agencies that had other information that would be relevant to us. For example, we engaged our general counsel to get some legal advice on how we would manage the secrecy provisions in the conduct of this investigation.

Senator O'NEILL: If you want to get the general counsel to provide you with details about secrecy provisions, do you have to get permission to do that from anyone or do you just do it independently? Does the minister have to know about that?

Mr O'Neill: No. We're an independent agency, so we do that. We do that without permission from anyone. Just as a point of distinction, because we heard the ATO say they got some general counsel advice as well: the ATO has general counsel and we have our own general counsel. We sought advice from our own general counsel on the secrecy provisions.

Senator O'NEILL: Okay. Essentially you and the ATO were seeking clarification for the same secrecy provisions, or were they different secrecy provisions that you were seeking information about?

Mr O'Neill: It's a bit of a layer cake here. There are secrecy provisions in the tax law, in the Tax Administration Act specifically, and they apply to all tax officers. Then the Tax Agents Services Act, specific to the TPB, has other secrecy provisions. Those two layers need to operate seamlessly. In broad terms, they operate in a similar way. They say, 'Information that's confidential or protected needs to be kept secret.' Then it allows a series of exceptions. Our legal advice said we were able to engage with the Treasury because we were able to determine that the Treasury had records which would be relevant to our investigations. That caused us to seek copies of those records from the Treasury.

Senator O'NEILL: What was the date of the engagement that you undertook with the Treasury after getting that advice?

Mr O'Neill: I'll just check. I think the first time we engaged with the Treasury informally was on 6 November 2020.

Senator O'NEILL: And then?

Mr O'Neill: And then Treasury explained to us that some of the information we required was subject to Privacy Act considerations and they wouldn't be able to provide it to us under an informal request, so we followed up on 11 January 2021 with a formal notice for the same information.

Senator O'NEILL: If you have a timetable that you could provide for us, for further questioning, that would be very helpful, Mr O'Neill.

Mr O'Neill: Certainly. I have a draft with some marks on it, so can I take that on notice? But we can provide you with a timetable.

Senator O'NEILL: Thank you.

CHAIR: The committee tables the documents provided by Senator O'Neill. The committee would also like to advise that we release the Commonwealth Grants Commission from the program this evening. Senator Pocock, you have the call.

Senator BARBARA POCOCK: Thank you, Mr de Cure and Mr O'Neill. I have some questions around the suspension of PwC. The tranche of emails that you released shows a conspiracy within PwC to profit from confidential government information. They booked at least \$2.5 million to 14 clients to help them minimise their tax, and it's suspected that 50-odd partners and personnel were involved in this matter. 'For your eyes only'—that's a quote; the emails carried that and many other indications that there was awareness about the secrecy and the betrayal of that confidence. They knew what they were doing was wrong. They did it anyway. So why haven't you suspended PwC's registration as a tax practitioner?

Mr de Cure: When we completed our investigation, we went through the process of considering the relevant things to impose a sanction. We imposed the sanctions on PwC that were about making sure that these problems did not occur again in the future, and we considered that to be appropriate at the time. We currently have ongoing consideration of the matters surrounding this issue, and we are making some further inquiries. But we don't have any current plans to suspend PwC.

Senator BARBARA POCOCK: What current considerations are you making? Are you considering a particular sanction for PwC in view of the conspiracy, which we can all see here?

Mr de Cure: As I said in my opening statement, we don't want to prejudice any other existing investigations being conducted by other parties, so I wouldn't like to comment on that further than to say that we have some ongoing inquiries. We are not considering a further sanction at this time. Our processes wouldn't need us to make findings before we consider sanctions.

Senator BARBARA POCOCK: The Tax Agent Services Act 2009 requires tax practitioners to comply with several requirements—in particular, the Code of Professional Conduct. The first clause of the code, legislated in part 3, requires tax practitioners to 'act honestly and with integrity'. Has PwC acted honestly and with integrity?

Mr de Cure: In relation to what happened in 2015, arguably, no.

Senator BARBARA POCOCK: 'Arguably'.

Mr de Cure: In relation to what they are doing today, I would imagine they probably are.

Senator BARBARA POCOCK: Isn't it your responsibility to deal with what they have done, as opposed to what they say they might do in the future?

Mr de Cure: Yes, it is.

Senator BARBARA POCOCK: Given the evidence that you have, and your agreement that they have not acted with honesty and integrity, has the board formally considered whether PwC has breached subsection 30-10(1) of the professional code—to 'act honestly and with integrity'?

Mr de Cure: We haven't considered that, no.

Senator BARBARA POCOCK: And why hasn't the board considered that?

Mr de Cure: As we explained, we went through the process of investigating the referral from the ATO. We considered the evidence that we raised and we made findings, and we imposed sanctions. And that happened in 2022, from memory—at the end of 2022. When we made the sanctions, we considered the information that was in front of us, and we believe we made appropriate decisions.

Senator BARBARA POCOCK: I think many people out there watching this and many people in this Senate think that the kind of conspiracy that they've seen where potentially 50 people, many of them partners, in the biggest accounting firm in the world were up to their necks in monetising confidential information to help multinationals minimise tax is clearly established. And you're telling me that you haven't considered whether PwC acted honestly and with integrity?

Mr de Cure: As I said, we are currently making further inquiries. It's a very formal process to—

Senator BARBARA POCOCK: It has been underway for many years.

Mr de Cure: I understand that, but we did go through a formal process, make decisions and impose sanctions.

Senator BARBARA POCOCK: Do you think Australians are reasonably asking the question as to the adequacy and the strength of resolve in your committee, given the failure to deal with the character of what has occurred here?

Mr de Cure: It's my view that we haven't failed to deal with what has occurred here. It's my view that we received a referral from the ATO and that we dealt with that referral in accordance with the Tax Agent Services Act.

Senator BARBARA POCOCK: Why didn't you apply to the Federal Court, which is also a penalty available to you, for an order for payment of a pecuniary penalty under subdivision 50C of the act? Why was there no referral to seek a financial penalty? Why was there no fine? The average taxpayer faces a fine.

Mr de Cure: In this instance, as I said, we imposed the sanctions that we thought were appropriate. I don't know if you want to comment on fines, Michael? It's pretty unusual.

Mr O'Neill: Yes. The Tax Agents Services Act allows pecuniary penalties in certain circumstances. Those circumstances don't apply to the circumstances we found ourselves in with Mr Collins and PwC.

Senator BARBARA POCOCK: Why?

Mr O'Neill: It's just the way the legislation is structured.

Senator BARBARA POCOCK: Can you take me to the clause in the act which says that you cannot fine someone who has betrayed confidential information, made money from it and assisted multinationals to avoid tax? I'm very curious about an act that has that failure built into it.

Mr O'Neill: I can take you to the particular part of the Tax Agents Services Act. If you'd like some detailed analysis of it, perhaps I could take that on notice.

Senator BARBARA POCOCK: That might be the procedure that would be helpful here, rather than having us go down a rabbit hole. I look forward to receiving that analysis on notice.

Mr de Cure: Can I also say that the recommendations of the James review are supported by the TPB, and, as a result of the James review, the government has legislation in front of parliament at the moment that will be strengthening our capacity to impose sanctions and the range of sanctions available to us. We administer the Tax Agents Services Act in accordance with the weaponry it gives us.

Senator BARBARA POCOCK: I take some comfort from that. I'll be very interested in that. But it actually takes a board to have the resolve to use the penalties available. You, the board, had a penalty available to you, Mr de Cure, and the board failed to use it. That was to suspend PwC, and you as a board have elected not to do that, which leaves a very big question mark in the minds of many of us watching this series of events unfold. Why was there only a two-year ban for Mr Collins—why not the maximum five? Why was there not an application for a fine for him also? No doubt there's some legal technicality there, but fill me on why this man, who is clearly exposed in this set of egregious events and has suffered a two-year penalty, did not pay?

Mr de Cure: I would address that by saying that Mr Collins's registration as a tax agent was cancelled. The two-year ban is a ban from reapplying, and, if he were to reapply, he has to satisfy all of the normal application criteria. When we considered the appropriate sanction for him, he had, on a range of matters, admitted his conduct and had demonstrated remorse for his conduct, and he had advised us that he would cease to practice as a tax agent. Where we use the five-year—

Senator O'NEILL: Did he also have referees?

Mr de Cure: He had three referees: one who was entirely independent and two who were other partners of PwC.

Senator BARBARA POCOCK: Can we have their names, please?

Mr de Cure: Can I take that on notice?

Senator BARBARA POCOCK: Yes. So he had referees and he expressed remorse—obviously a very valuable commodity.

Mr de Cure: In the instance of how we apply penalties and how we determine the length of the ban, yes, that's correct. As well, the behaviour that was being sanctioned was over five years old at the time that it was being sanctioned, so there hadn't been a repeat of that behaviour. Where we use the five-year—

Senator O'NEILL: That you know of to date.

Senator BARBARA POCOCK: Yes. Good point.

Mr de Cure: That we know of.

CHAIR: We'll let Mr de Cure answer the questions.

Mr de Cure: Where we use the five-year ban, it's typically for recidivist behaviour where there is no remorse and where there is a clear disregard for the law on a consistent and ongoing basis. That's how those distinctions are made.

Senator BARBARA POCOCK: But there's no consideration of the severity of the misbehaviour?

Mr de Cure: We consider the severity of the misbehaviour.

Senator BARBARA POCOCK: What criteria will Mr Collins be required to meet to be re-registered? What evidence will you look for of a reformed person who meets the standard of honesty and integrity that the code of conduct requires?

Mr de Cure: If he were to reapply, he would have to meet all of the registration requirements of education and practical experience within the last 12 months. He would also have to establish to the committee that he is a fit and proper person at the time of his application.

Senator BARBARA POCOCK: I look forward to that.

Mr de Cure: I don't think we'll ever see an application.

Senator BARBARA POCOCK: That is your belief? You believe Mr Collins will never reapply because he can see the public view and the board's view of his behaviour?

Mr de Cure: That would be my guess.

Senator BARBARA POCOCK: That's a question. That's your understanding also. Two members of the Tax Practitioners Board are former partners of PwC. Is that the reason you didn't suspend PwC?

Mr de Cure: No.

Senator BARBARA POCOCK: These two former partners both receive ongoing payments from PwC as part of their retirement plans. You confirmed in answer to a question on notice from last estimates:

... in a year of relatively weaker financial performance the payments are at risk of being reduced, as the total payments made to retired partners are capped at a fixed level of profits.

So two members of the TPB would stand to lose money if PwC were suspended. Is that correct?

Mr de Cure: Yes. I understand that to be correct.

Senator BARBARA POCOCK: I understand that these partners recused themselves from specific consideration of this decision, but let's not kid ourselves. People out there listening to this know what to look for here. Suspending PwC would be arguably the most consequential sanction that the TPB has ever made, and you'd still sit around the boardroom with these two former partners. Do you understand how this looks to the average person out there paying their tax?

Mr de Cure: Yes.

Senator BARBARA POCOCK: The TPB is fundamentally compromised. Doesn't that explain why you've given PwC nothing more than a slap over the wrist?

Mr de Cure: From the moment this came into our playing field, the two board members who were partners of PwC were excluded from all discussions in relation to this matter.

Senator BARBARA POCOCK: I understand that.

Mr de Cure: They have made appropriate statements—

Senator O'NEILL: Can I just clarify there—

CHAIR: I'd actually like to allow the witness to answer the question at this point. I'll come back to you. Mr de Cure, you have the call.

Mr de Cure: Thank you. Not only were they excluded from any discussion of this matter at the board—they left the room whenever this matter came up—but also they did not participate in any of the investigation. They did not participate in any way, shape or form in the Board Conduct Committee's work. They were totally excluded from this. There was no ability for them to influence these decisions. I must also say that the matter of appointment of board members is a matter for the government. Those board members were appointed by the Assistant Treasurer of the day, and we have a board of eight people. They're the ones who were appointed.

Senator BARBARA POCOCK: My question is not about the requirement to recuse yourself from a decision which you have a clear financial interest in. My question is about the look.

Mr de Cure: There was no consideration given—

Senator BARBARA POCOCK: If I can finish my question. My question is about the look—what the average person thinks about the fact that two members of your board were potentially going to lose money if you took a decision which you have said in your testimony already may well have been something that should have been considered in relation to the code of conduct. How does this look?

Mr de Cure: I understand the question of perception. This is not something that should have been considered in the decision of the sanctions imposed. We have no basis to consider that under the—

Senator BARBARA POCOCK: I can see that you didn't. How many partners at PwC received the confidential information leaked by Mr Peter-John Collins and knew that they were in receipt of confidential information?

Mr de Cure: I'm not in a position to answer that. I couldn't give an accurate answer.

Senator BARBARA POCOCK: From the emails that you have have you compiled a list of known names of those who shared this information?

Mr de Cure: Not to my knowledge. Michael?

Mr O'Neill: We have prepared a draft list and we're preparing a more detailed list. The reason that I can't be definitive is that there are thousands of documents we're looking at.

Senator BARBARA POCOCK: But you have—

Mr O'Neill: Sorry, can I just add one thing because I don't want to mislead you? When we are compiling that list we're identifying names which are appearing in the documentation. The mere fact that a name appears in the documentation doesn't mean that that person had any knowledge of what Mr Collins did or, indeed, any involvement in the BEPS issues. For example, there were emails circulated to a group of partners in Australia and internationally. That's why we're being very cautious about privacy issues and that draft list.

Senator BARBARA POCOCK: But you have powers of discovery. It is your single job to make sure that people are not out there practising in tax who have unethical practices, who are behaving in the way that Mr Collins did. So you have the powers to determine that. You have these emails and you have these names clearly on a list. What efforts have you made to examine what each of those persons was involved in and what knowledge they had?

Mr O'Neill: As Mr de Cure said, we do have ongoing inquiries addressing those issues. We're very cautious about saying the nature of those inquiries because there are whole-of-government coordination issues and some prejudice issues that we are trying to manage.

Senator BARBARA POCOCK: You have got the power to require the production of documents during an investigation. Did you ask PwC to tell you who was in each of the group or team emails? Have you sought information from them about the involvement of all the people on the list that you have assembled?

Mr O'Neill: In the first investigation, which was focused first on Mr Collins and then on PwC, we asked many questions of PwC and related PwC personnel, some informally and some formally. So we did receive some information about that. However, as Mr de Cure has said, we had a focus in that particular investigation on Mr Collins and the consequences on PwC. We are now looking at further inquiries that have a broader base than the first investigation.

Senator BARBARA POCOCK: So you're taking another look at who was involved, at what level and what happened and you were asking PwC for information to inform that inquiry. Is that what you're saying?

Mr O'Neill: I don't want to go into the details of that investigation, but the usual way if we have compiled a list like that is to go to various sources and say, 'What does this list mean?'

Senator BARBARA POCOCK: How many partners are able to be identified from the emails and are on your list who knowingly received confidential information?

Mr O'Neill: That we don't know. We can only identify the names. We have some information in relation to some of those names.

Senator BARBARA POCOCK: Yes, you clearly do.

Mr O'Neill: For the majority of people on that list we have very little or no information about what they knew at the relevant time in relation to Mr Collins's affairs, so we can't conclude definitively one way or another—

Senator BARBARA POCOCK: But you can conclude how many of them are partners. You could Google that and check their names. Have you done that?

Mr O'Neill: No. We can't conclude how many are partners because some of the email details we have are in relation to group emails.

Senator BARBARA POCOCK: Yes, I understand that.

Mr O'Neill: We don't have the details of who's in the group.

CHAIR: Senator Pocock, I need to share the call.

Senator BARBARA POCOCK: Can I do a last question in this stream?

CHAIR: Certainly.

Senator BARBARA POCOCK: On Monday, PwC Australia directed nine partners to go on leave pending the outcome of PwC's internal investigation. Have you asked PwC for these names? Do you know what they are?

Mr O'Neill: The first part is yes, we have, and no, we have not had an answer as yet.

Senator BARBARA POCOCK: When did you ask?

Mr O'Neill: I'm not sure if it was yesterday or the day before.

Mr de Cure: The day before.

Senator BARBARA POCOCK: But you have not received a response? No response of any form?

Mr de Cure: Not that I'm aware of.

Senator BARBARA POCOCK: Thank you.

Senator O'NEILL: Don't take it personally. It seems to be their method of operation.

CHAIR: I'll just advise that as we get near the break, I'll move to 10-minute blocks. Senator Colbeck, you have the call.

Senator COLBECK: I think Senator O'Neill has gone thoroughly through the time frame. Your website talks about there being a number of ways you can commence a process. You can receive a referral as you've done through Treasury.

CHAIR: The ATO.

Senator COLBECK: The ATO in this case—or you can commence something of your own. I'm curious as to what engagements you've had with like bodies in other jurisdictions. This was clearly a coordinated process in relation to what was not just a local exercise but something that was being worked on at an international level, led by Australia to ensure that tax was paid on earnings earned in a particular jurisdiction. Have you had any conversations with like bodies in, say, the US and the UK—which are both indicated through the emails that you've released to us—about the behaviour and what those jurisdictions might be looking for with similar circumstances in those countries?

Mr O'Neill: I can say perhaps this—sorry, Chair.

Mr de Cure: I'm not aware that we've made any particular reach-out to revenue authorities internationally on this matter. Australia is a little bit unique. We have legislation for the TPB here. It's not normal in a lot of other countries to have a body like the TPB. These matters are generally dealt with directly by their tax authorities. So a matter like this would most likely be on an exchange of information between the ATO and perhaps the IRS. There would be an exchange of information process around that. But we haven't sought to start those conversations at this time.

Senator COLBECK: But, in the circumstance that we heard about last night from the ATO, where they're restricted in what they can say about these matters, surely there's an interest in other jurisdictions about activities that are occurring that are clearly about avoidance of paying tax. Surely there's a rationale for communicating an activity. Clearly, in the emails you've released to us, you had evidence of that level of activity to both the UK and the US at least and a number of other countries that were involved in the process.

Mr de Cure: One of the things about the way the multinational anti-avoidance laws from the Australian perspective work is that they tend not to disadvantage the US or, perhaps, the UK. If those companies are resident in the US, the way these laws work—they'll have probably the first right of tax or the final right of tax. So it's probably not as disadvantageous to them as it is to the Australian revenue. That's because what's being done here is taking revenue out of the Australian revenue base and putting it somewhere else. So, if you are a US domiciled company, that revenue is likely to end up back in the US eventually, but once it leaves Australia's tax base, it's gone forever. So their interest in this is not at the same level of seriousness as ours.

Senator COLBECK: Surely, though, it demonstrates a method of practice?

Mr O'Neill: I'll just clarify this. There are probably two areas of concern. The one you referred to is around the tax administration and the tax avoidance risk of base erosion profit-shifting. It's a matter for the ATO what it does about that, but it's a matter of public record that the ATO has dealt with international jurisdictions to deal with that tax issue. Then there's a secondary issue around the role of the advisers associated with that. As Mr de Cure said, there isn't a TPB replicant in the US, nor in the UK. The regulation of the profession operates separately. So, whilst the ATO has a tax treaty network with the US, the IRS, and with HMRC in London that facilitates the sharing of information between relevant tax authorities, the degree of sharing on this matter, it being an ATO question, I don't know, but there is no TPB equivalent in either of those jurisdictions.

Senator COLBECK: But you're talking about a method of practice of the world's largest consultancy in this space. It is clearly a network that's discussing tax avoidance at an international level. Surely there has got to be some interest for authorities in those jurisdictions about the practices that are being employed.

Mr O'Neill: Yes, I'd agree. In relation to the tax issues, no doubt there would be international concern, and there was.

Senator COLBECK: But it's the way in which these structured organisations are working.

Mr de Cure: Senator, the question is an important question, but the protocols that allow the ATO to work with an international network do not apply to the TPB. We have secrecy provisions in our own legislation. We would not be in a position to go to the IRS and say: 'Here's what's going on here.' And I'm sure this issue is now pertinent in the US. They will be aware of it and looking at it. But we don't have the capacity to do that. Those protocols rest with the ATO.

Senator COLBECK: I'm sure there are people looking at these organisations all over the place at the moment—and if they're not, they should be. In respect of other practices within Australia, the ATO told us last night that they issued caution notices to all of the big four practices in Australia in, I think, 2016 when they noticed activity starting to occur in relation to the new laws being enacted. Would those sorts of notices, particularly with something as significant as this, pique your attention?

Mr de Cure: There are two things. I understand those notices were made to the other firms in response to this issue pretty much to say: 'Look, we know somebody's been doing some aggressive things. We're onto it. Make sure you don't play this sort of game.' It was really a statement from the ATO to let the other firms know that we were looking at this type of aggressive behaviour.

Senator COLBECK: Given what we've seen within PwC, have you had a look, given your powers of self-referral, at any of the other organisations to see if there's anything to see here?

Mr de Cure: We have a regular program of ongoing contact with the major firms. We have not at this stage had cause to investigate any of the other major firms in relation to this matter. From time to time we have had cause to look at specific instances of behaviour within some of the other firms—nothing like this, though.

Mr O'Neill: That's right. I can clarify. From what we heard from the ATO yesterday, they talked about two different things, as I understand it. The first was a public notice called a taxpayer alert. That's where the ATO senses there's a scheme in the marketplace that they think is in breach. They're alerting the marketplace: 'This is what we will do if you take on this scheme.' There were a series of taxpayer alerts around 2016, as I understand the ATO's evidence. Following that, the ATO issued production notices—compulsory powers—to each of the big four firms to get information in relation to the underlying schemes and their clients associated with those schemes. So those two things were happening in tandem about that time, as I understand it.

Senator COLBECK: And there were three court actions that they put on the public record last night in relation to schemes that were being implemented and subsequently reversed, which is why those are public.

Mr O'Neill: My understanding of that litigation was that, in relation to legal professional privilege claims, some clients or firms claimed privilege. ATO took on those claims.

Senator COLBECK: Thanks, Chair.

CHAIR: Senator Bragg.

Senator BRAGG: I have some broader questions about the regulatory architecture here. We're talking about an audit firm. It's regulated as a Pty Ltd company in Australia, and then it's got an audit function, which is regulated by ASIC. You look after the tax component.

Mr de Cure: Correct.

Senator BRAGG: Were any of the partners, to your knowledge, registered financial services tax agents under ASIC?

Mr de Cure: I understand that there is at least one PwC partner who was an authorised representative, and I understand that people are looking into that at the moment.

Senator BRAGG: But that's ASIC's jurisdiction, isn't it?

Mr de Cure: Absolutely.

Senator BRAGG: Then you've got the tax office. How does it all come together? One of the things about this saga is that there appears to have been a problem with coordination, which is not uncommon in this area of corporate law enforcement. How do you bring this all together with the different agencies, given there is an overlap? If I'm a professional services firm, then I have a whole bunch of ethical obligations under the auditing arrangements. I would have thought that those would be cascading through the firm. Maybe I'm being naive here—obviously, I am being naive! I have proven to be naïve. Sorry for the long question. I'm just wondering how you bring all the components together.

Mr de Cure: The ATO and the TPB have separate roles, but we are required to work together. The ATO administers the tax system and works on the integrity of the system. They collect the tax, they work with the taxpayers and they have a legitimate interest, a very legitimate interest, in the behaviour of tax agents. Our sole purpose is really consumer protection through the regulation and registration of tax agents. So the ATO may well be in a position where things come to their attention, and they need to solve the tax aspects of that first, before they might necessarily make a referral to us. They'll be looking at a scheme or looking at a particular matter and they will want to get that under control before they necessarily come to us. So that's part of that relationship. But we have a regular exchange of information. As Michael has already said, our staff are tax officers on secondment to the TPB, so they have available to them access to ATO systems to find the information that they need. There are rules about how they use that, in the same way that there are rules about how a tax officer working in the tax office will use information that's available to them. So we work together in as coordinated a way as possible.

With ASIC, in relation to registered financial advisers, there's a crossover between those who are tax financial advisers, so they're subject to our code of conduct and can effectively be regulated by us.

The partnership piece is interesting because the major audit firms operate as partnerships because only an actual person can be a registered company auditor. But their structure from there will generally corporatise for asset protection, their own tax arrangements and how they do their own remuneration. But the partnership piece is unregulated, other than by state partnership acts. If a partnership is conducting a business as a registered tax agent, as Senator Pocock has pointed out, we can regulate their participation as a registered tax agent.

Senator BRAGG: In this case, where you have got a PwC partner or partners, who are also tax agents registered with ASIC—it used to be part of your bailiwick, wasn't it?

Mr de Cure: Yes.

Senator BRAGG: How has that gone, in terms of the communication with ASIC?

Mr de Cure: That's been well coordinated. It's a relatively new environment so there were transitional arrangements made for the registered tax financial advisers, and we still have some regulatory oversight of them. But in the long term they will be ASIC's issue.

Senator BRAGG: But the bulk of the day-to-day issues, from an enforcement point of view, sits with the TPB?

Mr de Cure: In relation to tax matters, yes.

Senator BRAGG: Except in a case where someone has a dual registration.

Mr de Cure: Yes, but we would still deal with the tax matters. If a tax agent is seen to breach the code, we would deal with that.

Senator BRAGG: I've looked a lot of these different reports. The advisory concept is quite a woolly concept. I can give you advice on all sorts of different things, as a professional organisation. Some of them are more like internal audit reports and others are giving strategic tax advice. What is the case where you have someone—and

I'm not sure if this has happened in this case—who is an auditor, and engaged in audit work at a professional services firm but then goes into the advisory section and gets involved in this sort of business, what happens then? Does that make sense, or have I lost you?

Mr de Cure: It does. Generally, to charge a fee for tax services you have to be a registered tax agent, and that can be as an individual or as a member of a firm or an employee of a firm. If this were an instance where an auditor moves into the advisory space and starts giving tax advice, they would need to be regulated internally by their own systems. But the TASA requires there to be adequate supervision, so you have to have a sufficient number of agents within your organisation to provide adequate supervision to the people that are giving the tax advice and doing the tax work, and that has to be done to the satisfaction of the TPB. If, for instance, we saw a problem with a large audit firm who had one registered tax agent giving a lot of tax advice, we would ask them to demonstrate to us how they are providing adequate supervision.

Senator O'NEILL: Would that be to the CEO?

Mr de Cure: Yes. We would engage with the firm, most likely, through the CEO. One of the emerging issues at the moment is franchising. There's quite a bit of franchising going on in the tax agent space at the moment, and we're working very actively in that space to make sure that the franchisors understand their obligations in regards to supervision and control. Equally speaking, remote working is providing interesting issues in relation to supervision and control. We're working on those issues on a daily basis.

Senator BRAGG: In terms of the auditing obligations that companies and individuals face, you don't engage in that in a day-to-day sense?

Mr de Cure: No.

Senator BRAGG: You leave all that ASIC?

Mr de Cure: Yes.

Senator BRAGG: But, when an issue emerges, is there a committee between the different agencies that comes together informally? How does it work?

Mr de Cure: There's not a committee, but Michael O'Neill and his team would interact with ASIC, APRA and Treasury on a regular basis. It's normal.

Senator Gallagher: Chair, I know we are almost at the afternoon tea break. A lot of the issues we're traversing here fall under the terms of reference for the Senate Finance and Public Administration References Committee inquiry into this actual subject, as the full inquiry into the management and assurance of integrity by consulting services. The Tax Practitioners Board has been called to attend that and appear as a witness. We have spent a lot of time in this committee on PwC, quite rightly, and, as I said, none of these comments should be seen to be protecting or covering or not wanting information to flow. But I am just pointing out that we've got a lot of witnesses still to come. We've got a long night and a long week. I just feel that a lot of this evidence is going to have to be re-prosecuted at the four scheduled public hearings that are being held by that committee.

CHAIR: Thank you, Minister. I think what we'll do is break now, and the committee will have a private meeting about the program. I'll ask the Tax Practitioners Board to remain. Minister, the break is scheduled to finish at 4.30; it could also finish at 4.25.

Senator Gallagher: Yes, that's fine; I'm fine.

Proceedings suspended from 16:10 to 16:25

CHAIR: The committee resumes with the Tax Practitioners Board. The committee has decided to proceed for another 20 minutes with the Tax Practitioners board. Senator Pocock, you have the call.

Senator BARBARA POCOCK: Oh, thank you.

CHAIR: Sorry, I went the wrong way around. Senator O'Neill, you have the call.

Senator BARBARA POCOCK: And then I do—okay.

Senator O'NEILL: Thank you very much. There was a reference made in the last little period of your evidence, Mr de Cure, to the number of appointments from a range of different companies. I just seek to table a document. It's annotated at the top with some evidence we received yesterday from the ATO. Could I just go back to the time line, Mr O'Neill. There was interaction between you and the ATO. You said the intelligence you received was in the form of a conversation with the ATO. The second of July 2020 was a significant date when, from the material that you provided, the TPB received a referral regarding Mr Collins. Who from? Treasury or the ATO?

Mr O'Neill: From the ATO.

Senator O'NEILL: Did you have any interactions with Treasury?

Mr O'Neill: Not at that stage. We subsequently did.

Senator O'NEILL: At what date did you start to engage with Treasury?

Mr O'Neill: Around 6 November. There was a question that we needed to determine first about—

Senator O'NEILL: Of which year, Mr O'Neill?

Mr O'Neill: I'm sorry: 6 November 2020. We had to get some legal advice around how we manage our secrecy obligations. Subject to that, we had informal discussions with Treasury around that time, 6 November 2020.

Senator O'NEILL: What was the nature of those informal discussions? Did you alert them to your concerns about PwC?

Mr O'Neill: It was in the form of a request. We said to them: 'We believe that you might have information or records in relation to the engagement of Mr Collins in the BEPS program. You might have a confidentiality agreement. You might be able to give us details in the meetings and any information or issues that were discussed at those meetings.' That allowed us to make disclosure to Treasury in the course of our business of investigation, so it was an authorised disclosure, if you like—a lawful disclosure to the Treasury.

Senator O'NEILL: So the authorised disclosure was about Mr Collins, and thereby they also become aware of PwC on 6 November 2020. Is that correct?

Mr O'Neill: Sorry, I didn't hear the second part of that. Around 6 November 2020, informally we requested that detail, in relation to Mr Collins, of the Treasury.

Senator O'NEILL: And then you made an authorised disclosure on the same date?

Mr O'Neill: By making that request, that was an authorised disclosure.

Senator O'NEILL: So Treasury became aware at that time, because Mr Collins was of PwC, that this involved PwC in some way?

Mr O'Neill: Yes. I can't say what Treasury became aware of or their details, but clearly they knew Mr Collins was part of PwC, yes.

Senator O'NEILL: Okay. Did you continue your interaction with Treasury, or was that the end of your interaction with Treasury?

Mr O'Neill: No, Treasury came back to us and said quite reasonably: 'There's some private information. We can't give that to you informally. You'll have to give us a production notice, a formal notice.' We did that on 11 January 2021.

Senator O'NEILL: Okay. What's happening in the meantime with your interactions with the ATO?

Mr O'Neill: I can't say specifically what was happening at that time. We would have been developing our brief of evidence, I think, and that would have been based on the initial referral from the ATO and additional records we were obtaining. The day we engaged Treasury with a formal notice was the same day that the formal investigation commenced in relation to Mr Collins. We would have been developing a position so we could advise Mr Collins, and that puts him on formal notice of our enquiries.

Senator O'NEILL: On 8 March, in the time line you provided me on notice, you commenced the investigation. The formal period commenced then—is that correct?

Mr O'Neill: On 8 March 2021 we formally commenced the investigation into PwC, and as far as the Mr Collins issues impact PwC.

Senator O'NEILL: Okay. Does the interaction with the ATO continue through the next period of time?

Mr O'Neill: It does. On 3 June 2021, the TPB sought further information from the ATO.

Senator O'NEILL: And what happened then?

Mr O'Neill: In relation to the ATO, we also sought further information from other parties. We would have issued formal notices to some parties and made informal requests of the ATO. So around July 2021 and for the next six to nine months, we issued a range of formal notices to PwC, to some related personnel and to related clients of PwC.

Senator O'NEILL: Did you receive assistance in that in any way from the ATO? How was their response to what you were undertaking at that point in time?

Mr O'Neill: The ATO came back to us—I'm not sure when; perhaps in June or July 2021—to say that the secrecy provisions prevented them from providing further disclosure to us of protected information.

Senator O'NEILL: So from June 2021 you were on your own, basically? The ATO stepped away from the investigation—is that correct?

Mr O'Neill: The ATO just said to us that they didn't have any information that they could give to us, because it would identify taxpayers and it was protected, and they said it was not relevant to the TPB's investigation.

Senator O'NEILL: Right. So they didn't assist you any further? They did not impede your investigation, though, did they, Mr O'Neill?

Mr O'Neill: No.

Senator O'NEILL: Right. They were simply of no further assistance—is that correct?

Mr O'Neill: I wouldn't say they were of no further assistance, but, in relation to that request, they simply said they could not provide any information. It would be wrong to say they were of no further assistance, because, as a tax officer, TPB officers constantly access ATO systems for all sorts of reasons relevant to our administration.

Senator O'NEILL: Are there any further dates that you need to add to the question on notice that you've given me as a reply to my last lot of questions, Mr O'Neill? We've got 31 October, 25 November, 23 December, 19 January and 23 January. Is there anything else that needs to be noted?

Mr O'Neill: I think they're the key dates from my chronology.

Senator O'NEILL: My next question is: given there was such a long period of time, and you were aware of these emails that we've been looking at, did the TPB consider any temporary action barring Mr Collins during the investigation, given the seriousness of the matter?

Mr O'Neill: We don't have any temporary action powers. As Senator Pocock pointed out before, we have the ability to issue cautions, orders, suspensions or termination, and that's only after we've conducted an investigation.

Senator O'NEILL: Not the part of the order that you made that was not specifically with regard to Mr Collins, which was just explored by Senator Pocock, but rather the part where you determined an order for a change of practice at PwC—what form did that order take, and how was it received by PwC?

Mr O'Neill: When you say 'what form did it take'—

Senator O'NEILL: Was it a letter of notification? Did they come and give evidence before the committee? Was there disciplinary—

Mr O'Neill: The process, and that picks up the time line—you'll see that the conduct committee met on two dates. We needed to clarify those two dates before. The first was 21 October 2022, where the conduct committee found that there was a breach. And then there was a following meeting on 16 November 2022, where the conduct committee decided the sanction. Following those decisions, there would be written advice to both Mr Collins and PwC of the conduct committee's decisions.

CHAIR: Last question, Senator O'Neill.

Senator O'NEILL: I have a question on notice about papers related to Ms Sullivan and Mr Hogan and the BCC; it indicates they recused themselves from attending the meetings and discussion. Can you clarify, on notice, if they had access to the papers for the discussion for the board.

My final question, if I may—oh, there are so many to choose from here! Mr de Cure, there has been some speculation in the news that you were one of the people on the board—the committee sanctioning board—that resisted the release of the information to the Senate.

Mr de Cure: I regard that speculation as incorrect. My first instinct with this matter, when we discussed it at the board, was to be as transparent as we could. The board discussed, with the advice of the secretariat, the issues around privacy, secrecy and the probity of other investigations, and we decided the approach that we took. That decision was unanimous. But, if you're referring to the article that was in the *AFR*, I think last Saturday, I regard that part of the article to be factually incorrect.

Senator O'NEILL: So you supported the release of the documents that are now public?

Mr de Cure: Yes.

CHAIR: Senator Pocock.

Senator BARBARA POCOCK: From what you've said today, it seems that you accept that Mr Collins was not the only partner of PwC who knowingly received and used confidential information improperly. Have I understood that correctly?

Mr O'Neill: Yes.

Senator BARBARA POCOCK: You've indicated that you have current, fresh investigations afoot in relation to PwC and the fitness of them as tax agents, and whether they have acted honestly and with integrity. Why are you undertaking a fresh inquiry? Why wasn't your inquiry robust and extensive when you undertook it? Is this because your initial investigation failed to look at all involved in PwC and their participation in this breach?

Mr de Cure: The referral that came from the ATO was a referral in relation to Mr Peter Collins, so we started out on that path. We added an investigation in relation to PricewaterhouseCoopers; we added them into the investigation. We concluded that investigation in as timely a fashion as we could, made decisions and imposed sanctions. As Michael O'Neill has previously said, we have a limited range of things we can do under the TASA, in terms of action, regulating behaviour. So we did that, and that was done as expeditiously as it could be done by us. That didn't mean that we were stopping there.

Senator BARBARA POCOCK: Mr de Cure, if I look at your time line, I think it was 18 months, was it not?

Mr de Cure: Correct.

Senator BARBARA POCOCK: That's 18 months of investigation, and you had penalties available to you in this act which you did not take. So to say that they weren't available to you—they were available to you, and you had an extensive period of time in which to consider them. So I must say I find it very puzzling that there has been this deferral of consideration, with multiple breaches—

Mr de Cure: With respect to the time taken for the investigation: we have to get access to the information that we need to put together a brief of evidence for the committee to consider. One of our first obligations is to procedural fairness. So, if we go out and make decisions on investigations that are incomplete, those decisions and the sanctions imposed as a result of those decisions probably wouldn't stand a test.

Senator BARBARA POCOCK: Throughout this chapter, did you or any member of the board or any member of your organisation have any communication of any type with any member of the government of the time?

Mr de Cure: That's one for you, Michael.

Mr O'Neill: 'Yes' is the short answer. The longer answer is that, generally, our secrecy provisions say that we cannot communicate with the minister, the Treasurer or anyone within the government unless there's a specific exception. In relation to operational matters, we never brief the minister or the Treasurer or anyone in the government, and we did not in this case. There was a time in December 2022 where we updated our public register, and then we subsequently updated more details on the register in January 2023. At those times, when there was a public record, we updated the Assistant Treasurer. To my knowledge, the only communications we had with the minister were at those times—December 2022 and January 2023.

Senator BARBARA POCOCK: Can you provide us with details of those communications, please?

Mr O'Neill: I'll take that on notice.

Senator BARBARA POCOCK: Thank you. My phone has been running hot with constituents asking about the fines question. If they are caught avoiding tax, they face up to 10 years in jail, as I understand it, and certainly thousands of dollars in fines. Can you give us, in my very limited seconds awaiting, the layperson's explanation as to why one of the largest professional services firms in our firmament has managed to go through this appalling chapter without any prospect of a financial penalty? Just give us the short summary.

Mr de Cure: I think the short summary is that the Tax Agents Services Act doesn't provide us with the ability to levy a fine. It's outside of our powers.

Senator BARBARA POCOCK: Do you believe that should be remedied?

Mr de Cure: I believe that the government is looking at beefing up our sanctions regime.

Senator Gallagher: That's one of the recommendations from the 2019 report.

Mr de Cure: Of the James review—and we welcome that.

Senator BARBARA POCOCK: Does it give you any concern that today the Reserve Bank governor said that he would no longer do business with PwC? Does that make any difference to your assessment of this matter and the investigation you have underway?

Mr de Cure: I think that's a matter for the Reserve Bank governor.

Senator O'NEILL: Can I just ask one final question about the sanctions?

CHAIR: There are three minutes remaining, actually.

Senator BARBARA POCOCK: There you go—very phenomenal!

Senator O'NEILL: The sanction on PwC that you implemented was a failure to manage conflicts of interest. Is that correct?

Mr O'Neill: Yes.

Mr de Cure: They are obligated to maintain systems and procedures to effectively manage conflicts of interest.

Senator O'NEILL: Over what period of time is that sanction to last?

Mr de Cure: I think it's permanent.

Mr O'Neill: Just to clarify, just over a period of two years.

Senator O'NEILL: That's what I had read. So you're going to supervise what they're doing for two years. What's the check-in time? Is it every six months that you have a look and see what they're up to? How many inspections of PwC's conflict-of-interest protocols have you observed yet?

Mr O'Neill: The first check-in time is yet to happen. I think it's next month.

Senator O'NEILL: Do you have a date?

Mr O'Neill: I could take it on notice. I don't know.

Senator O'NEILL: And then you will pursue that at six-monthly intervals for a period of two years. Is that correct?

Mr O'Neill: Correct, yes.

Senator O'NEILL: In your interactions with PwC, were your communications with the then CEO, Mr Luke Sayers, or the new CEO, Mr Tom Seymour, or both?

Mr O'Neill: I'm not aware of any communications we had with Mr Sayers, but we did send formal notices to PwC care of Tom Seymour.

Senator O'NEILL: Thank you very much.

CHAIR: Thank you very much, Mr de Cure and team, for being with us and answering all our questions. That concludes the questions, and you go with our thanks.

Mr de Cure: Thank you.

Mr O'Neill: Thank you.

Australian Office of Financial Management

[16:46]

CHAIR: We welcome the Australian Office of Financial Management and its representatives. Welcome, Ms Hughes and team. Did you wish to give any opening comments?

Ms Hughes: No opening comments today, thank you, Senator.

CHAIR: Excellent. We'll go straight to questions, and we'll start with Senator Smith.

Senator DEAN SMITH: Thank you very much. I would like to start off with green bonds. Could you explain to the committee how you see the green bond market at the moment and how you consider it might mature over time?

Ms Hughes: At the moment, there are about 40 sovereigns that are actually issuing green bonds. At the moment, in terms of the market, the premium that we were hoping to see over time is starting to diminish. Sorry, what specifics were you looking for in regard to green bonds?

Senator DEAN SMITH: Where I want to get to is customer behaviour. Do people discriminate in favour in regard to climate policies and climate approaches, or do they continue with what I would regard as a more traditional investment pattern that is pursuing strong credit ratings and those sort of things? That's where I was heading.

Ms Hughes: Essentially our expectation is that those factors—liquidity, the credit rating and the overall cost of bonds—will continue to be important. There will be some investors who are interested in having some of those green label bonds, but they're still going to consider all of those other factors. If you look at some of the states, what we've seen, particularly in the most recent issuance out of Queensland, is investors moving from a normal nominal bond into a green bond because it did actually have that labelling on it. So we're expecting the sovereign green program to be part of the overall story, rather than actually detracting from the normal nominal bond program.

Senator DEAN SMITH: So, looking over the medium term, you don't think that there will be a difference in buyers' behaviour?

Ms Hughes: We wouldn't expect so, at least in the immediate term.

Senator DEAN SMITH: How will you measure that expectation? How will you report against that? That's a view you have: you don't expect to. How will you calibrate that? How will you test that over time?

Mr Parry: Some issuers talk about what they would call a 'greenium'. When they use that word, what they mean is the difference between what we call the yield—the interest rate—on a green bond versus what the interest rate would be on a standard bond. The idea is that a green bond could be able to achieve a lower yield—a lower cost of funds—because some investors would be willing to pay more for that green bond. That has been the case for some issuers. For our bonds, the bulk of our investors, as Anna was saying earlier, are looking for liquidity, returns and a bunch of things. As well, there are some investors who will be focused on the government's climate credentials and also what a green bond looks like and how they would assess that. When we speak to investors, they generally advise us that, if they are going to be willing to pay more—to accept a lower yield for one of our bonds—it's likely to only be a small greenium, something in the order of one to two basis points, which is 0.1 to 0.2 of a per cent.

Ms Hughes: That takes into consideration the administrative costs with green bonds as well, because there are extra levels of reporting. We have to be able to demonstrate that the money that is being raised by a green bond is actually going where it's meant to be going and achieving what it's meant to be achieving. So that will be factored into how we actually look at the success of the program.

Senator DEAN SMITH: You mentioned Queensland. Which states are currently issuing or offering green bonds?

Ms Hughes: Queensland, New South Wales and Victoria. Western Australia is in the process of developing its green bond framework.

Senator DEAN SMITH: Are there any noticeable differences between those particular states and their approach to green bonds?

Ms Hughes: Not particularly, no.

Senator DEAN SMITH: This is a completely random question that I'm going to ask you because I forgot to ask it of Treasury. In the United Kingdom, there's a national savings and investments authority or agency, and they issue what are called 'premium bonds'. Are you familiar with those? I can see Mr Parry nodding.

Mr Parry: This is a retail product that UK retail investors can buy, up to a capped limit. In terms of returns that retail investors earn on those bonds, I understand that there's an interest coupon payment, but there's also a lottery involved.

Senator DEAN SMITH: That's exactly right. I'm curious to understand this, only because I had representations on it. It was unfamiliar to me before. It has been in operation in the United Kingdom for a considerably long period of time. It had been operating in New Zealand up until recently. What is it about the Australian market that has meant that these premium bonds have not existed or have not been introduced?

Mr Parry: I don't have a good answer to that.

Ms Hughes: We might have to take that one on notice.

Mr Parry: We, as the AOFM, don't deal directly with retail investors, so we're not in a position to offer that product ourselves. In the UK, as you identified, there's a separate body—the National Savings and Investment body—that does deal with retail investors, but our counterpart in the UK is the UK Debt Management Office, and they don't deal with that program.

Senator DEAN SMITH: I was interested in your more general market view, given that you're operating broadly in this particular space. Ms Hughes, you familiar with them at all?

Ms Hughes: I'm not familiar with the product that you're talking about, but I can talk about some experience from a state government perspective in regard to retail. It generally comes down to the administration around retail products. You wouldn't be doing retail products as a cost-effective way of raising funds. You'd be doing it for other reasons—for policy reasons. So, if you were, as a Commonwealth, going to be moving in that retail space more, those administrative costs would be one of the considerations that you'd need to think about.

Senator DEAN SMITH: So the administrative burden might make the exercise just uncommercial?

Ms Hughes: Yes. That has been the experience in some of the states where they've actually got out of retail products because it was an expensive way to raise money.

Senator DEAN SMITH: On notice, if you're able to provide any other observations, that would be very, very powerful and relevant to some younger constituents. Like I said, it was not something that was on my radar before. I will raise a couple of questions on notice, and then we can release you unless there are other questions. First, what is the total value of new debt issuance expected to be required as a result of the 2023-24 budget?

Ms Hughes: In dollar terms?

Senator DEAN SMITH: Yes. You've got that on you? That's perfect.

Ms Hughes: I think so. You are looking for the funding costs?

Senator DEAN SMITH: Yes, please.

Ms Hughes: The funding task for this year 's budget is \$81.4 billion. That includes the budget cash funding requirement, which is \$40.5 billion; the bond maturities, so the refinancing of the bonds that are maturing, which is \$35.9 billion; and decreasing the amount of Treasury notes by \$5 billion as well.

Senator DEAN SMITH: The second question is: what is the total gross value of the new AGS issuance since 1 June 2022?

Ms Hughes: Is that face value? For which years is it?

Senator DEAN SMITH: Since 1 June 2022.

Ms Hughes: At the end of this financial year, we're talking \$887 billion, and for next year it's forecast to be \$923 billion.

Senator DEAN SMITH: And that's the gross value?

Ms Hughes: That is the face value.

Senator DEAN SMITH: Do you have a figure for the net value?

Ms Hughes: What do you mean?

Senator DEAN SMITH: Don't be embarrassed; I'm operating under instructions as well!

Senator Gallagher: You are after a figure from—what was it?

Senator DEAN SMITH: The first of June 2022.

Senator Gallagher: That's not really the way it's done.

Senator DEAN SMITH: That's okay; I'm operating from cheat sheets. Finally, what is the total quantum of new AGS issuance since 1 June 2022?

Senator Gallagher: Do you mean to fund the budget because of what we inherited? Is that what you'd like to know?

Senator DEAN SMITH: I'm going to keep it easy for you and me!

Senator Gallagher: I can see where you're going.

Senator DEAN SMITH: What is the total quantum of new AGS issuance since 1 June 2022.

Senator Gallagher: I can see where you're going. I can assure you that gross debt to GDP peaks five years earlier because of our strong fiscal management, at 36.5 per cent of GDP, 10.4 percentage points of GDP lower than the October budget.

Senator DEAN SMITH: I think the secretary—

Senator Gallagher: I'm not sure if that is the question.

Senator DEAN SMITH: I think the Secretary to the Treasury might have referred to that yesterday—just for those people who might be watching and giving me the questions now. Those are all the questions from me on that.

Could we turn back to the premium bond matter? This will be the last question. Some states have explored the possibility of—

Ms Hughes: I'd have to take that on notice. I would be talking about something that was a long time ago.

Senator DEAN SMITH: Okay. Thank you very much.

CHAIR: I have a couple of follow-ups. Are you able to talk to us about what those revised debt forecasts the minister just outlined mean for interest payments?

Ms Hughes: Yes, I can.

CHAIR: How much lower and they expected to be compared with the October budget?

Ms Hughes: The expectation is that, because yields are lower compared to the October budget, which is reflecting the market's expectations around inflation and interest rates, we are expecting the average cost of borrowing to be 3.4 per cent for the issuance of Treasury bonds over the forward estimates. This is compared to 3.8 per cent as at the October budget. A practical way of thinking about that is, if were to issue a \$1 billion bond at the 10-year reduced percentage—the 40 basis points—that would actually save, over the forward estimates, \$3 million to \$3.5 million per year just on that single bond.

CHAIR: Thank you. Is the government's decision to return revenue upgrades to be budget helping to lower debt and interest costs?

Mr Parry: As a general statement, yes.

Senator Gallagher: We borrow less because the budget's in better shape overall, but that is probably for me to answer.

CHAIR: Finally, in relation to the green bonds, isn't it right that green bonds, which the government has stated it will commence issuing from mid-2024, don't impact the total stock of government debt? They don't displace the issuance of normal bonds?

Ms Hughes: That's correct.

CHAIR: You may have spoken to this; sorry if I am asking you to repeat. What's the impact of those green bonds likely to be on Australia's broader sustainable finance market?

Ms Hughes: I think that's probably a question better answered by Treasury. From our perspective, we are responsible for the bond issuance rather than the policies that actually sit behind that.

CHAIR: That's fair. Thank you very much. Senator Smith.

Senator DEAN SMITH: On page 89 of Budget Paper No. 1 there are two charts, 3.1 and 3.2. What is the underlying cash balance that's reflected in the chart 3.2 scenario?

Senator Gallagher: That'd be a matter for Treasury too. Obviously, the ones that cover the forward estimates period would be as outlined in the budget papers, but, beyond the forward estimates and into the medium term, that would be a matter that Treasury would have to answer.

Senator DEAN SMITH: But the source says Treasury and AOFM.

Senator Gallagher: The responsibility for Budget Paper No. 1 and these graphs sits with Treasury.

Senator DEAN SMITH: Minister, could you take that on notice for me for the Treasury?

Senator Gallagher: We don't publish the UCB beyond the forward estimates, but I'll take it on notice in the interest of time.

Senator DEAN SMITH: Not even once? Ms Hughes, what is the agency's role then? It says the source is Treasury and AOFM, what is your role? I could check this myself, but is this a common chart in the budget papers, and is the agency regularly involved in this?

Ms Hughes: We do the gross debt projections.

Senator DEAN SMITH: And that is a consistent budget process that the agency is involved in?

Ms Hughes: That is correct.

Senator DEAN SMITH: Thank you very much.

CHAIR: Thank you very much, Ms Hughes and team, for answering our questions. You go with our thanks.

Productivity Commission

[17:05]

CHAIR: I welcome the Chair of the Productivity Commission, Mr Brennan. You're appearing solo this evening?

Mr Brennan: For the time being; that's right. As dangerous as that might seem, why don't we make a start and see if the others join us soon? We're running a bit ahead of schedule.

CHAIR: Yes. We very much appreciate—

Senator Gallagher: Unusually, yes.

CHAIR: It is unusual.

Senator Gallagher: I know, but don't worry. I just told him he's not to slow us down.

Mr Brennan: I'm happy to press ahead.

CHAIR: We appreciate your assistance with the schedule. Do you have any opening comments you wish to make?

Mr Brennan: No.

CHAIR: Okay. We will proceed straight to questions. I will go again to Senator Smith?

Senator DEAN SMITH: I assume so. Is that correct, Senator Bragg?

Senator BRAGG: That is correct, Senator Smith.

Senator DEAN SMITH: Mr Brennan, I thought we might start at a high level. Could you make some observations about productivity in the Australian economy, particularly the sort of historical experience? It has now taken centre stage, with comments from the Treasury secretary and the RBA governor making references to productivity, the importance of productivity reform, sort of populate the state and monetary policy now. I'm wondering if at a high level you could make some observations about the productivity experience in Australia and also the productivity experience in comparable countries across the globe.

Mr Brennan: Productivity growth is not always a well-understood concept but it is of fundamental importance to living standards across the broad breadth of the community. It's formally measured by GDP per hour worked. In effect that's how the Bureau of Statistics measures what labour productivity is. Critically, it is linked almost by definition to real wage growth, and in effect that was the import of the governor's comments this morning about unit labour costs and the relativity between unit labour costs and prices.

The link between labour productivity growth and real wages growth over time is pretty strong. You would expect that because labour productivity growth explains how much is produced per hour of labour across the economy. Unless there's a change in the wages share of overall income between profits and wages or, alternatively, there is a rise in income due to some other external effect, like a terms of trade rise—higher prices for iron or other exports—real labour productivity growth is the only sustainable source of real wages growth.

Labour productivity growth has been relatively slow in recent times. In the last decade it averaged around 1.1 per cent per annum. That's the lowest it has been in any decade for the last 60 years. The 60-year average is around 1.8 per cent. That gap between 1.1 and 1.8 can seem like a meaningless 0.7 percentage points—what does that really mean?—but, when you take into account the compounding effect of that difference, it can have meaningful impacts on average living standards across the economy. The time it would take, for example, to double average income rose from around 39 years to over 70 years, so over a 40-year or 50-year time horizon it adds up. It's a significant driver of growth in living standards.

Australia is not alone in having slowing average productivity growth in last decade; that's really something which has been experienced across the developed world. There's not necessarily clear consensus about precisely why that has happened. Some culprits include, for example, the ageing of the population, the rise of the services sector—something we talk about a great deal in the five-year productivity review—and perhaps just the nature of technological change in recent decades. As much as it's the conceit of every age to believe that the pace of change has never been so rampant, that's not necessarily true. The wave of technological change that occurred in the last part of the 19th and early part of the 20th century was arguably more rapid and more broadly based, with electricity and the internal combustion engine, various breakthroughs in public health and all manner of inventions that massively enhanced productivity and everyday lives. By contrast, perhaps, the ICT revolution, as we see it, has been relatively narrowly based and hasn't had quite the same impact.

There might be a range of reasons why productivity growth may have slowed, but it has. I think the broad sense that it's important to leave policymakers with is that there's no single lever that magically lifts productivity growth to a predetermined level. It's not something that we can neatly calibrate. Its sources will always be, to some extent, a little bit mysterious, relying as they do on the rate of innovation, the rate of technological change and the rate of commercial entrepreneurship across an economy. The link between policy and the rate of productivity growth is not a kind of linear, one-to-one relationship, but policy settings broadly can make a contribution. The way we like to see it is not that we can determine our desired rate of productivity growth, or make deliberate choices around it, but that we can certainly stack the odds in our favour with the right sorts of policy settings.

Senator DEAN SMITH: You talked about there being no international consensus about dampened productivity improvements globally. Is there a consensus about the Australian experience, about why we have seen this dampened productivity growth experience?

Mr Brennan: I would say that the same debates that play out internationally are relevant to Australia. I think the circumstances of each individual economy will differ, and the path of productivity growth does differ subtly. The slowing of productivity growth has been a more consistent story for much of Western Europe and Japan, for

example, having had quite rapid productivity growth in the post-war period. It's been pretty much a secular decline since the early 1970s. For the United States, there was a bit of an uptick in the 1990s with the emergence of the ICT revolution, if you like—the emergence of the internet and the new business models that it made possible—and Australia to some extent followed suit with that. We had a little surge in productivity growth in the course of the 1990s, partly driven by those technological developments and partly, probably, by the dividend of some past pro-productivity reforms, which occurred particularly with the liberalisation of the economy in the 1980s.

Senator DEAN SMITH: Are you talking about the national competition reform agenda?

Mr Brennan: Yes, and related reforms—even things that predated that. The mid-1970s onwards was the beginning of the reduction in international trade barriers, starting with the across-the-board tariff cut in the mid-1970s but continuing apace in the 1980s. We had the floating of the Australian dollar, the opening up of the financial sector to competition and, yes, substantial reform of government business enterprises—the opening up of the two-airline policy, for example—and, often, sector-by-sector injection of new competition, tax reform and some workplace relations reform. It represented a fairly broadly based set or suite of policy measures that delivered a degree of competition, a degree of dynamism, into the Australian economy. I think there was, to some extent, a productivity dividend. Certainly past research by the Productivity Commission has suggested a link between the two things.

To some extent, there was probably something of a productivity surge coming out of the recession of the early 1990s, as occasionally does occur. It's not a pleasant term, but the kind of cleansing effect of a recession is that some relatively low-productivity firms sometimes exit in the course of a recessionary event, and that can sometimes boost the productivity growth as you come out of a recession. For various reasons, Australia did have a surge in productivity growth in the 1990s which has subsequently abated. The path of productivity growth isn't always uniform across different economies, but I think the broad picture is still pretty consistent; there has been a long-term secular decline in the rate of productivity growth across the developed world.

Senator DEAN SMITH: But, if I heard you correctly, also a lag in productivity gains that can be achieved. You might have a policy initiative or a reform, and it may be that the productivity gain is more easily seen earlier, but there might be future productivity gains, so it might take a little longer or a long time for the productivity benefit of the policy to be realised.

Mr Brennan: I think that is right. I think that's a fair reflection. There's no science in that, but yes, these things sometimes operate with a considerable lag.

Senator DEAN SMITH: Much is said at the moment about the global volatility and instability in geopolitical arrangements. What are the two or three features of the Australian economy in that geopolitical context that we should ensure we protect in order to also have reform initiatives? What things in the Australian economy do we need to protect and maintain and uphold in addition to those future reforms that need to be implemented to start to generate better productivity returns?

Mr Brennan: I think it's a good question. There is, if you will, a bit of a shift in the global policy discourse. There is certainly much stronger weight being given to geostrategic concerns, which have dented some of the more full-throated or enthusiastic support for globalisation and free trade and free flows of investment and people, to an extent. And perhaps some of the supply chain pressures that emerged during the COVID pandemic have contributed to a bit of a view that economies need to build greater localised resilience, for example.

I think in the last set of estimates we talked about the enacting of the Inflation Reduction Act in the United States and the concern in Europe about their industrial base—a kind of a shift in sentiment away from global commitment to free trade towards quite protectionist and avowedly protectionist policies among some of our fellow developed economies. I think the important thing for Australia is to have a clear-eyed sense of what our best strategy is in that world. I don't think it's to emulate significant subsidies for domestic production or local content rules. I do think there are opportunities presented by the IRA, as we have seen in the agreement between the President and our Prime Minister.

To your question, there is a lot to be said for the 'glass half-full' view of the way the Australian economy has performed over the last 30 years. The fundamentals of the Australian economy are not broken. That basic policy consensus that has existed around open trade, open investment, a responsible fiscal position, product markets and labour markets that are flexible and where prices can adjust, and relatively light-handed regulation but credible regulation and credible governance free of corruption—those sorts of things are the basic underpinnings of economic success. I think we don't want to lose or depart from them in some sense that this has let us down. I think that basic mix remains pretty robust and is a good platform.

Senator DEAN SMITH: Would your categorisation of Australia at the moment be that there continues to be a high level of support or a high level of national consensus for the virtues of trade liberalisation—for example, open economy?

Mr Brennan: I think it varies a bit, to be honest. The reforms I mentioned earlier that occurred in the 1980s, including the dismantling of tariff barriers—I'm not sure that they ever really enjoyed widespread popular support, but perhaps there was a realisation of the necessity of those things. I'm not a political commentator, but the way the debate in the United States, notably, has shifted away from free trade towards a highly protectionist sentiment shared on both sides of Congress does suggest to me you need to be ever vigilant about making that case publicly.

Senator DEAN SMITH: I think your observation is right. I think it's fair to say that, while the National Competition Policy reform process might have enjoyed some national consensus amongst policymakers, the benefits or virtues of that met with significant resistance at a community level.

Turning to the five-year Productivity Commission review, I'll go to some process questions in a moment, but the governor this morning suggested—I'm just paraphrasing—that we should put as much effort into the smaller things as we might put into the larger things. Is that a view that you would support?

Mr Brennan: I think there's a lot to be said for that. For policy reform, we often tend to think about some of those large-scale policy reforms of the past, and often it's been that single policy lever—floating the dollar, changing a tax, dismantling a tariff—as 'the' key reform. It's fair to say—and it's dealt with in our report—that there are a lot of dimensions of reform that don't really look like that. We talk a fair bit about where one might achieve productivity growth in the non-market sector, which is those services that are predominantly funded or delivered by government, often. There, it's not really about shifting a single lever or changing a policy setting with the stroke of a pen; it's that hard daily grind of the decision-making that occurs often—the delivery of services on the ground and the way those services are configured. So I do think there's a lot to be said for that, not forgetting that the broad number of small things can add up to an appreciable change.

Senator DEAN SMITH: We have a Labor Prime Minister, and there are Labor state governments across the country. Should Australians be expecting a much higher level of state-federal cooperation on a productivity reform agenda? Is that an opportunity that is waiting to be realised?

Mr Brennan: I think there's always scope for cooperation between the Commonwealth and the states. I've spent much of my career at that interface. One observation I'd make is that sometimes it's helpful to have governments of the same political persuasion, and sometimes it needn't necessarily work that way.

Senator Gallagher: Pros and cons.

Mr Brennan: Yes, but there is scope; there's always scope for optimism on that. It's easy to be pessimistic, but there are a number of areas of shared purpose where the Commonwealth and the states have worked pretty effectively together.

Senator Gallagher: About half the recommendations in the five-year review involve state and territory governments to some degree, and the Treasurer will be discussing these recommendations specifically at the CFFR in June.

Senator DEAN SMITH: I'll come to that in a moment, but it is a nice segue, Senator Gallagher. Are the difficulties that the Federation presents for federal-state corporation overstated?

Senator Gallagher: You're asking for an opinion.

Senator DEAN SMITH: The Federation has worked since 1901, but often, when people think about productivity reform and economic progress, they throw up the Federation has being this significant hurdle that we have to overcome. Is that problem overstated?

Mr Brennan: I probably ought not express a view about whether it's overstated. I think the point is that the federation need not be a barrier and, in fact, can be a useful laboratory for experimentation.

Senator DEAN SMITH: Agreed.

Mr Brennan: I think that, to fulfil that role, it is important that, firstly, there is some appetite for a degree of experimentation in different jurisdictions and, secondly, that there is a concerted effort to showcase the lessons learned. We've had various attempts at that. We've had the COAG Reform Council. Our own annual reporting function through the report on government services helps to do a bit of that. In the past we've done a bit of work for the Council on Federal Financial Relations, showing some case studies of things that have worked in different jurisdictions. I think it's important to be diligent about ensuring that there is that showcasing of the diffusion of the knowledge, if you like. One observation I would make about individual jurisdictions is that there's not always

a clear sense of what it is that's going on in the neighbouring jurisdiction or the comparable jurisdiction that might be worth adopting—or the lessons learnt.

Senator DEAN SMITH: Or some jurisdictions will have different strengths to other jurisdictions.

Mr Brennan: Correct.

Senator DEAN SMITH: Turning to some process issues: how many ministers have been briefed by the Productivity Commission on the most recent five-year review?

Mr Brennan: I might have to take that on notice because the briefings would have taken a range of forms. Ministers may well have been briefed by their own agencies and departments. Can I just take that on notice and come back to you with a more considered response?

Senator DEAN SMITH: Why don't we approach it this way: which departments and agencies have sought out the Productivity Commission to have a briefing and to perhaps get into the weeds and details of the five-year review since it has been released?

Mr Brennan: In some cases, it hasn't necessarily been the departments saying, 'We want to have a briefing on the productivity review,' per se. It has more been individual issues that have prompted a bit of dialogue. So there are a number with which we've had discussions. We've had discussions with Treasury, for example, about competition, as well as dynamism sections here. In the education space, we've certainly had interactions with the Department of Education on both schools and universities, including through the department with the expert panel on the National School Reform Agreement and with the Universities Accord Panel. So there are a number like that—

Senator DEAN SMITH: On notice, perhaps you could identify which departments or agencies they are and then the nature of the discussion between the Productivity Commission and those departments or agencies. I completely understand that point—that Environment would have a particular focus. Remind me, what date was the five-year review released? Was it March?

Senator Gallagher: I'm sure we can get that for you.

Senator DEAN SMITH: If somebody could quickly do a Google search, that would be great.

Mr Brennan: You're testing me there.

Senator DEAN SMITH: How has the five-year review been presented to the Treasurer?

Mr Brennan: The report went to the government—

Senator DEAN SMITH: Is it still with the government?

Mr Brennan: Then the government released it. So it goes to the government. There is a timetable under the act, and it has to be tabled in the parliament. That date was effectively brought forward. I forget that date, but it was in March.

Unidentified speaker: It was 17 March.

Senator Gallagher: Yes, it was 17 March.

Mr Brennan: Effectively, that's the form in which it gets presented. We send it to government on the agreed date, which was 7 February.

Senator DEAN SMITH: Has the Productivity Commission formally met with the Treasurer to talk about its work?

Mr Brennan: No, not on the productivity review, but I understand that the Treasurer has had a number of briefings with Treasury in respect of it.

Senator Gallagher: He certainly has, yes.

Senator DEAN SMITH: Going back to Senator Gallagher's remarks about the strong reference to state-federal government relations: has the Treasurer requested that you or other members of the Productivity Commission make a presentation to the Council on Federal Financial Relations?

Mr Brennan: I don't think that invitation has been extended, to my knowledge, but I'll check. We have had a session at the officials level under the auspices of the deputy heads of Treasury. That was something which the Commonwealth Treasury hosted in Sydney. I went along, and we had a discussion about the recommendations of the report and where the states might have interest in pursuing them.

Senator DEAN SMITH: What date was that?

Mr Brennan: I'm going to have to take that on notice as well.

Senator Gallagher: It was post the release.

Mr Brennan: Yes. It was certainly post the release, and it might have been April, but I'll check that.

CHAIR: Senator Smith, you're getting towards a marathon feat of about 25 minutes. How are you going?

Senator DEAN SMITH: I'm going well. I'm enjoying myself, actually.

CHAIR: Senator Bragg does have some questions.

Senator DEAN SMITH: Alright. Just a few other process matters, and then I'll let Senator Bragg have an opportunity. Mr Brennan, what's the extent—we have got the report, it's available—of the briefing material, other supporting materials that have used to communicate the five-year review to departments, to agencies, to the Council on Federal Financial Relations? What's the extent of that additional briefing material that might be made available to the committee?

Mr Brennan: There are various things. I might get Ms Bell to reflect on this: what some of the other—you're thinking in terms of formal products like fact sheets and presentations that we've given?

Senator DEAN SMITH: Not those things in the public domain; we can see all of those. What other supporting materials don't we have visibility of that you might now be able to make available to us? Since the report was released on 17 March, no doubt there's properly been discussion in the commission, discussion with state and territory governments and discussion with departments. I'm interested to know how that work might be evolved. I don't expect it to be evolving significantly at this point, but I'm keen to see what further iterations of the commission's consideration of these issues it's received and correspondence that it might've received on various initiatives that are contained in the five-year review.

Senator Gallagher: Can I jump in. I can say in my own area: the report is the report; it's provided. Obviously there are recommendations that fall under my portfolio responsibility or areas of priority and directives, and then I would seek information from my department. I wouldn't necessarily seek it from the Productivity Commission, because I can see from the report what their view is on it. If that helps, just in a practical sense of how we would follow things up internally. That's to support the work that I do and when we take things forward. There were a number of areas that were covered in the report that were aligned with some of the budget decisions, so, obviously, it feeds into some of that as well.

Senator DEAN SMITH: Let's just stay with the Council on Federal Financial Relations for a moment. Mr Brennan, can you provide to the committee on notice the various briefing materials and other presentation materials that were used to brief the state and Treasury officials when you met them in Sydney in late March or April?

Mr Brennan: Yes. I'll take that on notice, but that should be fine.

Dr Lattimore: I can clarify it was 31 March.

Senator DEAN SMITH: Thanks very much. Finally, to what extent has the Prime Minister taken a personal interest in the Productivity Commission's five-year review?

Mr Brennan: We haven't had a direct interface with the Prime Minister on it, but, again, I would anticipate that that interest would be mediated via his department, the Treasury—

Senator DEAN SMITH: How many times has the commission met with the Department of the Prime Minister and Cabinet?

Mr Brennan: I don't think we have since the production of the report.

Senator DEAN SMITH: Since 17 March?

Mr Brennan: Yes.

Senator Gallagher: The report's the important thing, right? That's what goes out, and then—

Senator DEAN SMITH: No. That's not true. If we just read reports, we wouldn't have a Senate estimates process.

Senator Gallagher: Well no; there's other important things, but—

Senator DEAN SMITH: Exactly. Conversations and discussions.

Senator Gallagher: This line of questioning is interesting considering there wasn't a response to the last Productivity Commission five-year review.

Senator DEAN SMITH: I think people would find a remarkable that the Secretary of the Treasury does not have a paragraph at the moment, does not have a document, that mentions the word 'productivity'. The governor of the RBA has pinpointed productivity as a central, core issue if we're going to have proper and informed

conversations about inflation, and neither the Prime Minister nor his department has taken any time since 17 March to make any—

Senator Gallagher: That is not true. When we get to this late stage in the day you start verballing and actually putting words into people's mouth that haven't been said.

Senator DEAN SMITH: Minister, perhaps you could take on notice: when did the—

Senator Gallagher: The Prime Minister has been briefed appropriately on the Productivity Commission's report. You will see a number of areas in budget decisions—

Senator DEAN SMITH: How did the—

Senator Gallagher: If I could just finish. I have been mainly quiet all day. You will see a number of areas—in VET reform, cyber, universities, migration, child care and digital; areas identified in the PC report—that have been followed up by government. That's just since we received the report, but other work had been underway that is aligned with the Productivity Commission's report. The Prime Minister has been briefed appropriately not only through his own systems but through the normal and very traditional government style of decision-making that we govern with through our ERC and other processes. I can guarantee you that because I've been there.

CHAIR: Final question, Senator Smith.

Senator DEAN SMITH: Minister, thank you—

Senator Gallagher: Statement 4 of Budget Paper No. 1, which is a Treasury and Finance document but Treasury had the lead on it, covers off some of those issues, so it's not fair to say that Treasury doesn't have a view.

CHAIR: Does that conclude your questions?

Senator DEAN SMITH: No. I just have one question. The minister can take this on notice. Could you in the detail, in the granularity, provide to the committee all of the details of how the Prime Minister has briefed himself and familiarised himself with the five-year—

Senator Gallagher: I'm not representing the Prime Minister here. That's a question for the Finance and Public Administration Legislation Committee. I've answered the question.

Senator DEAN SMITH: I'm free to put it on notice. You are quite correct.

Senator Gallagher: You are. Yes, it's fine. But I can guarantee you that we have a Prime Minister who, if he is in the country, attends virtually every ERC meeting. He is well and truly briefed.

Senator DEAN SMITH: You've said that a couple of times.

Senator Gallagher: Well, it's unusual.

Senator DEAN SMITH: How would you know it's unusual?

Senator Gallagher: Well, from what I understand.

Senator DEAN SMITH: Well, you'll excuse me if I don't take it on face value. Thank you very much.

CHAIR: Thank you, Senator Smith. I feel like you should win some special award for hitting the 30-minute jackpot with that round of questions.

Senator DEAN SMITH: You make it sound like I'll get a second 30-minute opportunity.

CHAIR: It's a one-off jackpot and it just expired. The committee tables a document circulated by Senator O'Neill. Senator Bragg, you have the call.

Senator BRAGG: I'm just looking at your report *Advancing prosperity* and the section on workplace relations. It doesn't feel like we're doing any of those things. Are you advocating that our productivity would be enhanced if we had more flexible arrangements at the individual and workplace levels?

Mr Brennan: Yes, I think that is broadly right. There are three key things that we emphasise in the workplace relations section. This is apart from areas relating to the gig economy, for example, so in the conventional regulation of employment matters. One is a set of recommendations around the award system itself. One is a set of recommendations or a change of direction around the ease with which enterprise agreements can be struck, so with which firms and workers can move from the award system into the enterprise bargaining scheme. And one goes to the content of those enterprise agreements.

I think it's fair to say that each of them deals with the provision of a degree of flexibility. Yes, it's fair to say that we think that's an important sort of channel by which productivity can be enhanced because, just as we put a lot of focus on areas like human capital formation, education, skilled migration and these sorts of things, how labour moves around the economy and how labour is used in firms—whether it can be used flexibly and whether

hours worked and labour input, if you like, can move to more higher productive uses, either within the firm or across the economy—are important.

It is important, of course, to balance those flexibilities against the protection of minimum standards. We're clear on that. There are some areas where we talk about how the compliance with minimum standards could actually be enhanced. For example, noting that there has been a bit of a fall away in the use of formal enterprise bargaining back into the awards system, one area of change that we note might be fruitful would be to provide some flexibilities for businesses and workers that are always going to be award reliant. There are a number of industries where there is always probably going to be significant award reliance, and, particularly for smaller entities, the red tape associated with striking an enterprise bargain might be prohibitive.

We note, for example, what the Fair Work Commission did with the hospitality award, from memory in 2019. It provided a loaded rates schedule, which provided a bit of flexibility around how a business might be able to effectively reflect penalty rates in a loaded hourly rate, and it gives a bit of choice to the employer. It just seemed like a useful thing—again, happening through the Fair Work Commission and thereby protecting minimum standards but providing employers with a degree of choice and flexibility about how they might achieve those minimum standards and not be too dominated by a very rigid award system. Then, as I said, there were a couple of recommendations around the better off overall test and about the content of agreements.

Senator BRAGG: Do you think the BOOT should be changed to—is this in relation to the Rossato and all these other cases? Are you worried about that? Yes? Okay. I noticed that you are recommending a review of the recent bargaining changes. Do you have a particular concern there?

Mr Brennan: With any substantial legislative change like that, I think it will be timely at a point to undertake a review. I might get Mr Lattimore to comment further on this because he's closer to the detail. We've talked in the past here in estimates about the issue with multi-employer bargaining. There's nothing wrong with that in principle. We have had provisions around multi-employer bargaining in the act in the past. There is a degree of international evidence. The international evidence is always going to be a bit imperfect because different sets of labour relations are so different across economies, but, to the extent that one can kind of glean these things, firm-level bargaining is more likely to be associated with productivity gain than industry-wide bargaining.

In fairness, in Australia, the bargaining that occurs will be overwhelmingly at firm level. That will continue to be the case. It's very unlikely that multi-employer bargaining will ever kind of take over. That would be the primary form of enterprise bargaining that's going on. But, yes, we do note that there is a degree of evidence around firm-level bargaining as a core element of improving productivity. As the bill proceeded through the Senate, a number of changes were made in relation to smaller entities and in relation to entities that have a history of enterprise bargaining et cetera.

I think it will be timely at a point to go back and review it. It might be that the conclusion of that review is that some of the worst fears weren't realised. It should be open to that. I think review or evaluation is always an important element of these things. Mr Lattimore—Dr Lattimore, I should say—did you have anything to add?

Dr Lattimore: I think that summarises it well, Michael. Our point was that this is a new provision. The existing multi-enterprise arrangements were much more restrictive. There are a whole lot of goals that the arrangements were intended to achieve. The Fair Work Commission's powers have changed. The issue is: what impacts have actually occurred following the changes? It is a typical evaluation arrangement, and we suggest some of the questions that you might want to pose as part of that evaluation—a detailed set of arrangements. We don't comment prior about what the evaluation would find, but more about how you should look closely at the impact and what you might then amend as far as the legislation is concerned.

Senator BRAGG: The other one you talk about here is having the menus in the awards. Is that basically saying that a particular class of employer can have more workplace-level flexibility but draw upon the award without having to go to an EA? Is that what it is?

Mr Brennan: Yes. What I was talking about in respect of the hospitality award is an example—that loaded rates schedule. Think of that as an example. Could the award system effectively offer to employers and employees a menu of options in addition to the award in its most prescriptive form?

Senator BRAGG: I know you're not the legal experts here; you're the economists. But, basically, all these ideas, whether it's disentangling enterprise agreements from awards, introducing menus or moving other restrictions, require legislation.

Mr Brennan: Yes, they would.

Senator BRAGG: Okay. Sounds challenging. Thank you very much.

CHAIR: Senator Smith, you have the call. I'll proceed in 10-minute blocks now.

Senator DEAN SMITH: Mr Brennan, if I understand it correctly, the Productivity Commission process—and I think it's a virtue of the Productivity Commission process—is that it does its work and then it issues a draft report, and then people have an opportunity to provide submissions and commentary on the draft report. That's considered by the Productivity Commission, and then the final report is released. In the case of the five-year review, was that the same method that was used?

Mr Brennan: It was slightly different, in that—and this is consistent with what was done five years ago with the *Shifting the dial* report—rather than doing a single draft report, so effectively having the equivalent of the final presented as a draft with a view to testing that and refining it as required, we chose to put out a series of interim reports in the course of 2022, which largely reflected the volume structure of the final report. From memory—Ms Bell will remind me—there were seven or eight interim reports.

Ms Bell: There were six interim reports between August and October.

Mr Brennan: And those interim reports, in some cases, had draft recommendations which would invite feedback specifically on those things. In other instances, they were more just reflecting a broad direction. That was the approach we chose to take this time.

Senator DEAN SMITH: Was a draft of the final report provided to either the Treasurer, the Assistant Treasurer or Minister Leigh?

Mr Brennan: No. You mean a version of this before—

Senator DEAN SMITH: Just before publication.

Mr Brennan: No. The final report went to government before publication, but it wasn't a draft. It wasn't subject to revisions.

Senator DEAN SMITH: It was the final report?

Mr Brennan: Yes, it was the final report.

Senator DEAN SMITH: Minister, I understand the shadow Treasurer's office requested a briefing from the Productivity Commission on 27 March 2023. I understand the shadow Treasurer's office wrote to the Treasurer's office, asking for a briefing from the Productivity Commission on the five-year review, on 27 March 2023.

Senator Gallagher: This March?

Senator DEAN SMITH: Yes. Was that request, made from Mr Taylor to Dr Chalmers, communicated to the Productivity Commission?

Senator Gallagher: I don't know. I'd have to take that on notice.

Senator DEAN SMITH: Mr Brennan, was the Productivity Commission ever made aware of a request from Mr Taylor to Dr Chalmers for a formal briefing from the Productivity Commission?

Mr Brennan: I think we were. We were keen to ensure that the appropriate channels are followed, and that involves channelling the request through the Treasurer's office.

Senator DEAN SMITH: Minister, if you could just—

Senator Gallagher: So you want to know if a letter—

Senator DEAN SMITH: I am just keen to confirm that Dr Chalmers's office received a request from Mr Taylor's office that the Productivity Commission be available to brief him on the five-year review, and whether or not that was communicated formally to the Productivity Commission by Dr Chalmers's office. Minister, could you give us an update on the renovation, reform, the government's agenda—

Senator Gallagher: We went through this yesterday. I think we did cover this off yesterday.

Senator DEAN SMITH: There was a lot going on yesterday. With the Productivity Commission here and with Senator Roberts and other people—

Senator Gallagher: It was through the relevant part of—

Senator DEAN SMITH: we could have the conversation again.

Senator Gallagher: Why not! I think the Treasurer has made it clear that he is looking at, essentially, revitalising the Productivity Commission—having a look at it and how it operates in an informal process where he will talk with, obviously, the Productivity Commission, other stakeholders and former people involved with the Productivity Commission.

Senator DEAN SMITH: What is the time frame for this?

Senator Gallagher: I think the evidence yesterday was that Treasury is providing some advice that is currently under consideration.

Senator DEAN SMITH: What stakeholders are likely to be engaged in the reform, renovation discussion?

Senator Gallagher: I think that was taken on notice. I don't think it would be any surprise. It would be people interested in the Productivity Commission's work, I would imagine. That would cover academics, community organisations, economists, people who have been involved in the Productivity Commission in the past, the Productivity Commission itself—all of those.

Senator DEAN SMITH: Is the Treasurer starting with an open mind, or has he got some preconceived ideas about how he would like to see the Productivity Commission operate into the future?

Senator Gallagher: Well, I am not in the mind of the Treasurer.

Senator DEAN SMITH: But you are in his seat for the Senate estimates purposes.

Senator Gallagher: I am representing him here, but it's difficult for me to say what he has in his mind. But I would say it's essentially a new government coming in and wanting to have a look.

Senator DEAN SMITH: He has not shared with you his ideas about how the Productivity Commission could be, in your words, revitalised?

Senator Gallagher: I think it's as I have explained. The discussions I have had with Dr Chalmers about this align with the evidence I have given.

Senator DEAN SMITH: Is the Treasurer starting with an open mind?

Senator Gallagher: Are you trying to get me back in the mind? I have answered that. I think it's good governance and good government to have a look at how things are operating, take feedback, and look at opportunities to improve or not, depending on what that feedback is. So yes, I would say that is very much an open-minded approach.

Senator DEAN SMITH: Mr Brennan, in your extensive experience, are there ideas or initiatives or models internationally, or elements of international models, that could be, from your observations, incorporated into a refurbished or, in Senator Gallagher's words, revitalised Productivity Commission for Australia?

Mr Brennan: I am sure there are things, Senator. In many ways, the Australian model has been often the model for overseas jurisdictions. Because Australia was relatively early in having a productivity commission, it's something that has been emulated by a number of other OECD countries, including New Zealand, a number of European economies, Chile and other OECD or aspiring OECD members. But each does it a little bit differently.

It's a little while since I've had those conversations with overseas peers, but logically, yes, there will be elements of overseas models that are worth looking at. We have been in our current form for 25 years, which is longer than either of our predecessor entities, the Industry Commission or the Industries Assistance Commission before it, so we have been going a fair while. We have evolved by increment. The work program has changed a bit over time; it's much broader than it has been in the past. In more recent years it has particularly broadened around the work we do on Aboriginal and Torres Strait Islander policy, for example. I think it is the right question to ask, you know—to have a look: Is every aspect of the structure, the processes, of the commission right? Is the emphasis of the commission right? Is it fit for purpose? My view on this has been that it's silly to think that nothing should ever change. One has to be open to those possibilities.

Senator DEAN SMITH: Let's approach it from a different perspective. Given that the Productivity Commission is an exemplar internationally, what are the key elements of the commission's approach, structure, that should be protected against renovation, against revitalisation?

Senator Gallagher: Independence would be the one that springs immediately to mind.

Senator DEAN SMITH: I will come to you in a moment, Senator Gallagher. This is a question I do want to ask you. We might let Mr Brennan go first.

Senator Gallagher: I thought I'd jump in early!

Senator DEAN SMITH: I think we're all agreed, actually. I think I-N-D-E et cetera—independence—is absolutely the most important. We can bank that, I would hope, Senator Gallagher. Mr Brennan, what other sorts of features deserve care and attention and protection?

Mr Brennan: I won't answer it in terms of what should be protected via a particular process, but I'll reflect a bit on some of the strengths, as I see it, of the commission and its way of work. None of this is to say that everything about the commission is perfect or nothing is capable of improvement.

Senator DEAN SMITH: Of course, yes.

Mr Brennan: I think the independence is important. The central bit of that is that the commission determines its own view. I think independence can sometimes be a little overinterpreted on a range of fronts. What really matters is the fact that we determine what we think, and nobody tells us what we think. We're not subject to the vagaries, if you like, of outside influence or vested interest. I do think the process to which you alluded is a strength. The fact that we have fairly transparent processes around putting our thinking out there to be tested such that it's contestable—I think that sense of visibility and transparency has been a strength of the commission. I do think the commission has had quite an intellectual culture throughout its history, a strong sense of curiosity, of commitment to evidence and both theoretical rigour and real-world evidence. I think those are certainly strengths of the commission model. I think the kind of ability to, hopefully, evolve and grow in terms of applying that conceptual rigour to new areas of policy that may not fit within the kind of conventional micro-economic reform remit—be it on environmental policy or on various aspects of social policy or, as I say, on Aboriginal and Torres Strait Islander issues—but with a preparedness to learn and potentially think a bit differently, hopefully the ability to evolve and change, is one of those strengths.

Senator DEAN SMITH: I would just add to that, certainly from my experience, the Productivity Commission process and the transparency around the process and the ability for people to come back and contest certain elements in a draft report. I think the benefit of that was most powerfully evident in the work around GST distribution. States and interested parties could see the various arguments. They could see the evidence. I think that the Productivity Commission itself being given that task, as opposed to other possible features of government or organs of government—I think the transparency and the strength of that process allowed this particular GST debate to move forward.

CHAIR: Senator Smith, you're well past the 10 minutes.

Senator DEAN SMITH: I always reflect on your generosity as a chair, Senator Walsh.

CHAIR: We had 45 minutes scheduled for the Productivity Commission, which we've reached. We do have our next witnesses here and we have senators who are here for our next witnesses. Can I conclude shortly?

Senator DEAN SMITH: Yes. Finally, Senator Gallagher, you were going to make some observations about the various strengths of the current Productivity Commission. You mentioned independence.

Senator Gallagher: You asked the question: what are the things that need to remain? That was my answer to that. Clearly, independence needs to remain. I think it's worth having a look at how everything else is working. We take the productivity challenge seriously. You've seen that reflected in the two budgets to date where we've picked up a number of the issues that have been identified in the Productivity Commission's report. As Mr Brennan said, every workplace is changing at the moment and undertaking, in some cases, disruption and reform. I think it makes sense to go in with an open mind, have a look and consult with people, and then land a position on it.

Senator DEAN SMITH: Mr Brennan, we extend our appreciation for the professionalism with which you've undertaken your role at the Productivity Commission. Those Productivity Commission reports do get the attention of parliamentarians. When we look at substantive reforms in our country, we can clearly see the contribution of the Productivity Commission in that. Certainly I—and, I'm sure, coalition senators—thank you for your stewardship of what is an important institution.

Mr Brennan: Thank you, Senator.

Senator Gallagher: I understand, having just checked with Mr Brennan, that this is potentially—you never know; there's always the opportunity for recall—Mr Brennan's last appearance in this role at an estimates committee, so I'd like to put on the record the government's sincere thanks for his leadership and the work that he has performed in that role over the last five years. I think I first met Mr Brennan when he was an official at Treasury, but before that he had a distinguished career in Victoria. He has had a long period of public service which the government would like to recognise. I know the Treasurer has formally acknowledged that you have endured many, many sessions at estimates in different roles.

Mr Brennan: But all before this committee. Thank you, Minister. It would be an exaggeration to say estimates has been an enjoyable experience because nobody in Canberra believes that—

Senator Gallagher: You're channelling everybody right now.

Mr Brennan: I do think, in my eight years experience both in the Treasury job and this one, it's been a well-run committee under your chairship, Senator Walsh, and that of your predecessors. I'd like to thank the team as well for all the liaison that goes on behind the scenes. I'd love to say I'll miss it.

Senator Gallagher: I was reading into that that you're not going to really miss us.

CHAIR: On behalf of the committee, Mr Brennan, we wish you all the best and we thank you very much for coming time and time again and answering our questions on such a broad spectrum of issues that are absolutely critical to our nation. Thank you for your work and you go with our thanks this evening. Thank you.

Mr Brennan: Thank you, Chair.

Australian Bureau of Statistics

[18:03]

CHAIR: In welcoming representatives of the Australian Bureau of Statistics, I add some special thanks for what I understand was a mad dash across town to get here before the scheduled dinner break. We very much appreciate that. Thank you very much.

Dr Gruen: We're very glad to be on early, so thank you, Chair.

CHAIR: Welcome, Dr Gruen and team. Dr Gruen, do you have an opening statement or any opening remarks that you'd like to give?

Dr Gruen: No, Chair.

CHAIR: Fantastic. We'll proceed straight to questions. I give the call to Senator Roberts.

Senator ROBERTS: Thank you all for appearing today. My first questions go to accuracy of data. In the last estimates session, we had a conversation around the accuracy of one of your datasets. I want to follow up on that. The dataset is births by year and month of occurrence by state. It's available in your Data Explorer. The conversation was around the reduction in births shown towards the end of 2021, and that reduction was quite dramatic. I accept your position that this effect is caused by delays in reporting of birth, and a lot of December's reports came through in January. Is this correct so far?

Dr Gruen: That is correct. There's a pattern, which is repeated every year, which is that the first unrevised estimate of births in December is of the order of 6,000 or 7,000, and then, once you have the final numbers, the final numbers are of the order of 22,000 or 23,000. So there is an enormous revision for precisely the reason you just mentioned—namely, not everyone has recorded the birth of their child. I think they have other things on their mind than making sure that the ABS gets its numbers right.

Senator ROBERTS: The dataset is titled 'birth by month of occurrence', not 'births by month of reporting'. 2021 data was not available until 19 October 2022. Why was 10 months insufficient time to completely compile the full 2021 calendar year? I note that December is still showing 6,600 births against an expected 20,000 in your Data Explorer, as you've just said. Why is this data still incomplete 17 months later—and still wrong?

Dr Gruen: It's unrevised; I wouldn't use the word 'wrong'. The answer is we have a schedule of births which has been the same schedule for an extended period. We haven't yet got the revised numbers for 2021, but, when we do, we have a pretty good idea of the order of magnitude that they'll be. This hasn't changed. We've been doing it on this timetable for many years.

Senator ROBERTS: The database now carries a warning—thank you for this—'incomplete data'. Have you made a note of where else incomplete data is being loaded into your Data Explorer and ensured incomplete data warnings are attached as you load that data?

Dr Gruen: We provide preliminary data for a range of series, and we did more of that during COVID because we thought it was important for people who were making decisions to have the most up-to-date data that they could possibly have. So we brought forward some releases, understanding that they would not be complete, and we were transparent about that. It is certainly the case that revisions are part of producing statistics, whether it's births or the national accounts. The national accounts also get revised. It's a common feature. We do not revise the quarterly CPI because there are legislative indexation arrangements. Again, it's a longstanding practice that we do not revise the CPI, but, for many other series, revisions are a standard practice.

Senator ROBERTS: I don't think anyone would complain, Dr Gruen, about data needing to be revised. Maybe the speed of it might be something we might inquire about, but what I was getting to was: are there any other datasets on your Data Explorer that need the words 'incomplete data' as a warning? Bad decisions are made off bad data, and it becomes misinformation.

Dr Gruen: I don't think it's misinformation. We are as transparent as we can possibly be about the nature of the data. For instance, we put out provisional data for deaths, which we have actually discussed in previous estimates hearings.

Senator ROBERTS: Yes.

Dr Gruen: That is based on the available information two months after the end of the reference period, and those are also revised subsequently. When we first started producing that data, again, that was during the early phase of COVID. We did it purely on the basis of doctor certified deaths, which is about 80 to 85 per cent of overall deaths. We've managed to include some coroner certified deaths in that series, but it's still incomplete when it's first published two months after the period. So there are several datasets where we are very clear about the fact that they're not the final data and that extra data will come in for the period that we're talking about.

Senator ROBERTS: I'm advised that the incomplete data warning arrived after our session last time.

Dr Gruen: That is possible.

Senator ROBERTS: So I'm just wondering if there are any others. The dataset 'Causes of Death, Australia' for calendar year 2021 was released in October last year. Can you confirm that 2022 will be released no later than October this year?

Dr Gruen: I'm sure there'll be someone here who can tell you for sure. Around October is when we publish the annual data for the previous year, but we can take that on notice and give you an answer, for sure.

Senator ROBERTS: The provisional mortality figure is still showing that deaths are running above the previous known range. Has the ABS received any request from any minister or department—federal or state—for an explanation of where the increase is or what data the ABS has which could cast light on that substantial increase in mortality?

Dr Gruen: We do talk about provisional deaths, and we do talk about what proportion of those are people who died with, or of, COVID and from other causes, so I don't think there's a mystery about what is happening. We get lots of requests for our data, so I can't answer the question. Since it's on the website—

Senator ROBERTS: They wouldn't need to ask you.

Dr Gruen: That's right.

Senator ROBERTS: I was just wondering, in particular, whether Health had asked, but, as you said, they don't need to. Do you send reports routinely, or do you just publish on the website?

Dr Gruen: We publish, and we answer media inquiries. We have outposted people in many of the departments in Canberra, and we have continuing discussions with them. If a department had a specific request, it would be straightforward for them to ask us.

Senator ROBERTS: There's a disparity between datasets that I would like to ask about. Starting with the publication 'Provisional mortality statistics, Jan 2020-Dec 2021', which was released on 30 March 2022, the key statistic is that 149,486 doctor certified deaths occurred in 2021. If I then go to your Data Explorer, the figure for 'Deaths and infant deaths, year and month of occurrence', shows deaths in 2021 to be 160,891.

Dr Gruen: Is the subsequent number published? The number you first quoted is the number that was available from doctor certified deaths up until the end of March, and then the second number you quoted comes from more recent data. Is that correct?

Senator ROBERTS: I don't know when that was published, but it shows deaths in 2021 to be 160,891, which is higher. So I understand the difference in deaths because some would be autopsy certified and take time to come through; is that correct?

Dr Gruen: Yes, that's right. As we say when we publish those provisional death numbers, they are provisional. They are the data that we have available on the date at which we finalised the numbers. As I said earlier, doctor certified deaths are something like 80 to 85 per cent of all deaths, so the number goes up when you add the coroner certified deaths.

Senator ROBERTS: It includes the autopsies. Is the figure on this graph for the baseline average calculated using provisional mortality or using final data from the 'Causes of Death, Australia' dataset?

Dr Gruen: We can check, but I'm pretty confident that it's final.

Senator ROBERTS: Would that then include autopsy deaths?

Dr Gruen: Yes.

Senator ROBERTS: Provisional mortality is a widely shared dataset that informs much debate around our COVID response. It's running well above our historical range. From today's exchange, we know that the figure for provisional mortality understates actual rates of mortality. Your dataset does make that clear, so this isn't a criticism.

Dr Gruen: No.

Senator ROBERTS: What I would like to know is: by how much does provisional mortality understate actual mortality in percentage terms on average? I think you're saying 85 per cent?

Dr Gruen: I think the number that we get two months after the reference period is about 85 per cent of the final number.

Senator ROBERTS: I'd like to go briefly to data collection. A constituent of mine in Queensland has contacted me in person during a listening session in Rockhampton just recently. This elderly lady, who is single—widowed—and lives alone had a terrifying interaction with the Australian Bureau of Statistics that raises questions about either the staff training or your understanding of the fair exercise of power. The ABS maintained a dataset called the National Nutrition and Physical Activity Survey, which apparently involves Australians being selected at random to participate. The survey consists of an Australian Bureau of Statistics officer visiting the selected person's home and taking their height, weight, blood pressure and waist measurement, which is compulsory. Then the citizen has the option of submitting a voluntary blood and urine sample. Is that correct?

Dr Gruen: I think so. I think that is correct.

Senator ROBERTS: The constituent in this case advised the ABS worker that she lives alone. After receiving a series of letters they thought was a joke, an ABS field worker came by her home in the dark at 6.30 pm, showed her credentials, asked for her by name and advised that the constituent must submit to the government mandated physical. When the constituent declined, she was threatened by your worker with a fine of \$220 per day until she submitted to this physical examination by a complete stranger. Is that how the ABS runs its survey?

Dr Gruen: Well, I can't comment on a specific event. We obviously do our best to treat people in a dignified way. It is true that the surveys that we run are compulsory, but we also allow for the possibility that people who have extenuating circumstances can apply not to be part of the survey, and people do do that on occasions. It is important, in order to be able to collect data that is representative, that we can indeed choose a representative sample, but it is also true that, for people who are in circumstances in which they find it particularly difficult or who are in the circumstances that you described, we are understanding.

Senator ROBERTS: That goes to my next question. Why can't you get this information from hospital records for admitted patients with de-identified data? Why pull names out of a hat, knock on their door, call out for them by name and terrorise them into submission? It seems like a massive overreach when there are alternative ways of doing it. Maybe the alternative ways are not entirely random, but they could be made so, couldn't they?

Dr Gruen: Just to make it clear: our aim is not to terrify people.

Senator ROBERTS: This lady was terrified.

Dr Gruen: Well, I'm sorry about that. We obviously train our interviewers to be sensitive to people. On the general issue of being able to find alternative ways to get the data, we are very much alive to those possibilities. What you're talking about is an example of using big data instead of surveys, and there's a worldwide move from national statistical offices to do precisely that both because the big datasets that are becoming available—there are increasing numbers of them. For instance, early in COVID we started using single-touch payroll from the tax office to be able to give high-quality, up-to-date information about employment. That's an example of a big dataset. But it is also true that response rates around the world are falling because people are, for whatever reason, getting less happy to respond to the surveys of the national statistical offices. That's another push factor to lead us to do precisely what you're suggesting. Now, we haven't accessed the particular dataset that you have talked about, but the general proposition that we are moving in the direction of using big data and taking the burden off individuals and businesses is very much a journey that we're on.

Ms Dickinson: For some of the surveys that we run, there are not alternative sources that we could avail ourselves of, and the survey that you referred to—the nutrition survey—has quite a range of questions that we ask people before we come to the physical measurements. It's things like diet. We ask people to recall what they have eaten and sometimes do a food diary. That's the type of thing that we can't get from big data and in which there's quite a range of interests from users, including the Department of Health, Treasury and so on.

Senator ROBERTS: By big data you mean data that can be automatically collected or harvested from existing datasets?

Ms Dickinson: Yes, such from the example that you gave, such as hospital data.

Senator ROBERTS: Okay. Have you ever fined someone for refusal?

Dr Gruen: Yes. And we fine a small number of people for not filling in the census.

Senator ROBERTS: Yes.

Dr Gruen: But not a large number. We have 10 million households fill it in and the number of people we fine is very small.

Senator ROBERTS: Minister, are you happy that this elderly widow was terrified?

Senator Gallagher: I'm sure the ABS and Dr Gruen would be very happy to follow up an individual matter, if you're able to support your constituent to raise that—if she felt vulnerable over that. I think that resolving these issues is important and there are ways to do that. I'd certainly encourage you to think about how you could facilitate that. I also totally support the need to seek this information, because it helps in so many ways to understand what's going on. Currently, for example, I've been selected for one of the household surveys—I think it's for nine months. Do you get selected for that—

Ms Connell: Eight.

Senator Gallagher: Eight months—

CHAIR: You can—

Senator Gallagher: It was made very clear to me when I inquired about having to do it—the compulsory nature of it—and the consequences for not filling things out every month—

Senator RUSTON: They didn't believe you when you said you were too busy, did they?

Senator Gallagher: I had very helpful advice from the ABS when I rang to try to get out of it! I was told, politely, that those were not grounds for getting out of it. But that's how we get information about what's happening across the country.

Senator ROBERTS: Yes.

Senator Gallagher: And I don't think that anyone who's sitting here would say that they took any comfort in thinking that an elderly woman felt terrified by it; that's not the intent, and I'm sure there are ways to work through that.

Senator ROBERTS: I applaud your comments about the need to use data in government but I don't see much of it—and I'm not talking about this government on its own, I'm talking about previous governments as well. One of the sad things is that government doesn't use data when making policy and legislation, in my view.

Senator Gallagher: But it's not just for government. So many people rely on the ABS datasets for their work.

Senator ROBERTS: Dr Gruen, you mentioned something that I took to mean people are becoming more reluctant to share data—

Dr Gruen: More reluctant to participate in surveys.

Senator ROBERTS: Is that due to the pushback because of—well, what is the cause? Is it due, partly or maybe majorly, to the intrusion into people's lives during COVID?

Dr Gruen: It's a phenomenon that predates COVID, and it's global. It happens in all countries. I'm aware that there has been a gradual decline in response rates to surveys. We have higher response rates than most advanced countries for many of our high-profile surveys, like the Labour Force Survey, which I think must be the one the minister is enrolled in.

Senator Gallagher: Mine is the household one.

Dr Gruen: Oh, can I—

Senator Gallagher: They want to know how many people in my house, what we're doing and how hard we're working. I'm skewing the statistics!

Dr Gruen: That's the Labour Force Survey.

Senator Gallagher: Is it?

Dr Gruen: We have the labour force expert behind us.

Senator Gallagher: Okay!

Senator ROBERTS: In which way are you skewing the statistics?

Senator Gallagher: Because I work so much! I'm off the scale!

Senator ROBERTS: Oh, off the scale.

Senator Gallagher: And it's, 'Why are you working so hard?' I fill it all out.

Dr Gruen: On the web?

Senator Gallagher: Yes.

Dr Gruen: Good, I like to hear that.

Senator ROBERTS: Because a pesky senator is asking questions in Senate estimates! Thank you, Chair.

CHAIR: I've got distracted and entirely lost control of the committee!

Senator ROBERTS: No, you're still in control.

CHAIR: Thank you. Senator Bragg.

Senator BRAGG: I want to ask about the next census and the LGBT issues that have been flagged over the last few years. Am I right in saying that in 2021 there was an internal debate, or advice given to government, about the inclusion of particular identity options? Can you just explain that again?

Dr Gruen: I can. Before the 2021 census—and this will again be true before the 2026 census—the ABS provided detailed advice to government on the basis of consultations that we do with the public. In the lead-up to the 2021 census, we gave advice about whether or not to use the census to ask questions about sexual orientation and gender identity. We said that there were arguments both pro and con, and we said it was a decision for government. The government of the day decided not to ask about gender identity and sexual orientation. That was the decision of the previous government, so we did not ask those questions in the 2021 census. We have completed the first phase of consultation for the 2026 census, and that is something that is one of the areas that has elicited considerable interest. We are going through an extended period of consultation. We have finished the first phase, and we're going to move the second phase. After that is all done, next year we will provide detailed professional advice to the government about any changes to the census.

Senator BRAGG: Did you recommend the inclusion of non-binary?

Dr Gruen: It wasn't me. For the lead-up to the 2021 census, there was not a recommendation either way on sexual orientation or gender identity. There was not a recommendation to collect information on non-binary. There was a question, the sex question, which was: is this person male, female or non-binary sex? That was the language used in the question in the 2021 census. People interpreted that question in different ways, so we wrote an article relatively recently, which basically said we didn't get anything useful out of that question in terms of non-binary sex.

Senator BRAGG: Just so that I understand, because I'm a bit slow sometimes: did non-binary come from the ABS, or did that come from somewhere else?

Dr Gruen: I'm not quite sure what that question means.

Senator BRAGG: You said you didn't give advice about orientation and identity.

Dr Gruen: Yes.

Senator BRAGG: You said you left that to the government of the day. So where did non-binary come from?

Dr Gruen: There are questions that you can ask about sex, gender identity and sexual orientation. We asked a question about the first but not the second or the third. In the sex question, we gave more than two options.

Senator BRAGG: Yes. It is confusing. What are you proposing to do this time? I guess what I'm asking is: are you going to follow your prior practice of not giving particular advice about those matters, or will you be recommending a particular approach here?

Dr Gruen: We haven't got there yet, but I don't feel bound by what we did in 2019. There is a great deal of interest in this, so I think we will come to a view. It is worth saying that, since our census in 2021, other countries have collected information. Canada has collected information in their census on sexual orientation and gender identity and has produced what, as far as we can tell, is high-quality information.

Senator BRAGG: Okay.

Senator DEAN SMITH: If I might continue from Senator Bragg?

CHAIR: Senator Smith.

Senator DEAN SMITH: Thank you very much, Chair. So the quality of the information that is delivered via the census would be heavily dependent on the construct of the question?

Dr Gruen: We do our best to make the questions clear, and we test them.

Senator DEAN SMITH: Sorry. I should have said, welcome Dr Gruen and officials. Thanks for giving us your time. In your previous exchange with Senator Bragg, you mentioned that the previous exercise had delivered not much benefit to the purpose of the census. Was that because of the way that the question was constructed?

Dr Gruen: I think, if you're simply asking about sex and you're not asking about gender identity or sexual orientation, then you're in a difficult place. Many people who answered the question clearly interpreted it as a question about gender.

Senator DEAN SMITH: You mentioned that there's a lot of interest in the community about this particular broad issue. At the moment, do you have a view of the public policy benefit to be gained by the inclusion of questions such as this?

Dr Gruen: I think it's important information. An issue is whether the census is the correct vehicle for collecting it because you are sending the form, either electronically or on paper, to the household, and people can fill it in individually for themselves, but often households are asked, 'Is this person ...'—that's the nature of this question—and you answer it for the whole household. So that is a consideration because these are sensitive issues.

Senator DEAN SMITH: In evidence earlier today and yesterday the point was made that, for a variety of reasons, Australian households are getting smaller.

Dr Gruen: Yes, they are.

Senator DEAN SMITH: It was in the context of rental increases et cetera, and availability of housing supply, so there's a change in the composition of households.

Dr Gruen: Yes.

Senator DEAN SMITH: How does that affect your exercise?

Dr Gruen: Do you mean the census?

Senator DEAN SMITH: Yes.

Dr Gruen: We do our best to have every household in the country respond to us, so the fact that households have got a bit smaller recently is something that we're aware of. The Reserve Bank did a nice careful piece of work using the labour force survey to work out household size, and there was a noticeable drop recently. It should not affect the census.

Senator DEAN SMITH: Going back to your previous comments, you mentioned that you've completed the first phase. Are you able to give us an idea of the range of issues that people are interested in having incorporated into the census, that you said government might have a chance to consider later this year or early next year? I'm very familiar with the LGBTI issue, of course, and have been very familiar also with the grandparent-carer issue for a number of years now. Grandparent-carers in our country are predominantly older, single women on income support. I think Senator Hinch and I might have written to the previous government advocating for census information around grandparent care. So that we can get a bit of an understanding of the challenge, can you give us a sense of the range of issues that people are interested in having incorporated in the census? I note your point to Senator Roberts about people's diminishing interest in participating in the national status collection mechanisms that you mentioned globally. Can you give us a sense of what the range of issues is?

Ms Dickinson: We're currently looking at that. We've just closed our first-stage consultation, and we've received 750 pieces of information, including 259 through our formal portal and information from quite a number of other sources as well—emails, letters and so on—since the 2021 census and in the lead-up to the 2021 census. As you can imagine, that covers a very wide range of perspectives. There are three themes that we've seen, loud and clear. The first theme is around sex, gender and sexual orientation. Another theme is around cultural identity and ethnicity and getting deeper, richer information on that. The third one is on getting further information on matters to do with Aboriginal and Torres Strait Islander peoples. They would be three that stand out as being particularly prominent so far in our work.

Senator DEAN SMITH: Was there a particularly novel suggestion that stood out?

Ms Dickinson: I can tell you couple of novels ones from 2021.

Senator DEAN SMITH: Yes, please.

Ms Dickinson: Veganism.

Senator DEAN SMITH: Who?

Ms Dickinson: Veganism—asking people to declare whether they were vegan, or not—and pet ownership. And I'd be very surprised if pet ownership hasn't got another round this time because so many people consider pets part of their family.

Senator DEAN SMITH: That's fascinating. Thank you.

CHAIR: That concludes the questions that we have for the ABS. Thank you very much, Dr Gruen and team; you go with our thanks.

Senator DEAN SMITH: You can take that as a high level of confidence.

CHAIR: I'm in the process of seeing whether the secretariat can procure the National Competition Council for some questions before the dinner break. While I'm doing that, we'll take a very short suspension.

Proceedings suspended from 18:35 to 18:37

CHAIR: I advise that we can release the National Competition Council. There being no further questions at this time, the committee's consideration of budget estimates will resume at 9 am on Thursday. Thank you, Minister Gallagher, and officers of the portfolios who have given evidence to the committee today. I also thank Hansard, broadcasting and the committee secretariat.

Committee adjourned at 18:37