

Education and Employment Committee 2021-22 Budget estimates - Questions on Notice Index
Education, Skills and Employment, including Industrial Relations matters
Last updated: 12 May 2021

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1	EEC-BE21-01	Hansard	Deborah O'Neill	1/06/2021	20	Attorney-General's Department	Applications to the Fair Work Commission regarding casual conversion	Mr Hehir: Certainly, there are circumstances where there are some employers who aren't ideal and have behaved badly. We're certainly aware of that. We've seen them. They've been taken to court, so we're conscious of those. That doesn't mean the majority of employers meet that standard at all. We believe the vast majority of employers want to do the right thing and are looking for support to do that. From our perspective, yes, there will be some casuals who will have the discussion with their employer in the first instance and who will eventually end up in the small claims court seeking to have their rights afforded. There will also, I have no doubt, be some employees who choose to work for a different employer rather than keep going. The act provides mechanisms; it can't force people to use them. Senator O'NEILL: No. But life will force people to take another job. I will ask, on notice, if you could, given the necessary support that you have to show for the limited amount that the government was actually able to get through with the IR omnibus bill, think about how many more applications to the Fair Work Commission you expect if this casual conversion thing is actually going to work and how many small claims you expect would be advanced. Could you take those on notice? I have three final questions, if I could, Chair.	16/07/2021
2	EEC-BE21-02	Hansard	Deborah O'Neill	1/06/2021	22	Attorney-General's Department	Fixed-term contracts - employment	Senator O'NEILL: I do have some stats here. There were 413 employees in fixed-term contracts as of August 2020, based on the ABS characteristics of employment data, and 43.7 per cent of the contracts have fewer than 12 months duration, with education and training being the industry where fixed-term contracts under 12 months are most prevalent. So this is a real thing that needs redress. Senator Cash, I would be really interested in the government's perspective on the nature of this insecure government work, and I might just leave that on notice for you to reply to.	16/07/2021
3	EEC-BE21-03	Hansard	Louise Pratt	1/06/2021	25	Attorney-General's Department	FWC appointments - Ms Mirabella's years expected to work at FWC	Senator PRATT: But I would expect, given Ms Mirabella's age, that she will have some 11, 12 or 13 years in her appointment? Mr Hehir: I can take that on notice. I can check the expected date.	16/07/2021
4	EEC-BE21-04	Hansard	Louise Pratt	1/06/2021	26	Attorney-General's Department	FWC appointments - Qualifications of appointees	Senator PRATT: They would have extensive experience in employment law and industrial relations, as a former union official, which was the context of my question. My question was: What qualifications do most of the other appointees have? They have experience in employment law and industrial relations, don't they? Mr Hehir: I don't have the list of qualifications in front of me. I will have to take that on notice, in terms of what their formal qualifications are. I don't have the list in front of me.	16/07/2021
5	EEC-BE21-05	Hansard	Louise Pratt	1/06/2021	27	Attorney-General's Department	FWC appointments - Nomination of Ms Mirabella	Senator PRATT: Who put forward Mrs Mirabella for this position? Was it a captain's call from the Prime Minister? Senator Cash: I'm not aware of how the appointment came forward. Senator PRATT: Did she self-select and suggest herself for this role? Senator Cash: We would need to take that on notice. I'm not aware of how that occurred.	16/07/2021
6	EEC-BE21-06	Hansard	Louise Pratt	1/06/2021	27-28	Attorney-General's Department	FWC appointments - Retirements and resignations	Senator PRATT: Mrs Mirabella is based in the Melbourne office—is that correct? Whose vacancy in the Melbourne office was she filling? Senator Cash: I would need to refer that to our officials that are now, I understand, dialled in. Senator PRATT: Was there a vacancy in the Melbourne office? Ms Kuzma: The Fair Work Commission doesn't have vacancies as such in relation to commissioners and deputy president members. It's a matter for government to decide how many positions they appoint in that regard, and where the work is required. So there are no vacancies as such. Of course, as Mr Hehir has outlined already, members do retire or resign from time to time, and there certainly have been some of those recently and I could take that on notice for you. Senator PRATT: Okay, but none of those retirements or resignations were in Victoria—or Melbourne—were they? Ms Kuzma: They may have been. I can take that on notice. Obviously, last year there would have been a difference in workload also, as a result of COVID matters, and so things can change in terms of where particular personnel are required at a particular time.	16/07/2021
7	EEC-BE21-07	Hansard	Louise Pratt	1/06/2021	29	Attorney-General's Department	FWC appointments - Employer groups	Senator PRATT: Can you confirm you've made six appointments to the Fair Work Commission, all of whom were from employer groups? Senator Cash: I don't have that information in front of me. We'll take that on notice for you	16/07/2021

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8	EEC-BE21-08	Hansard	Anthony Sheldon	1/06/2021	43	Attorney-General's Department	Independent Contractors Act - number of cases	<p>Senator SHELDON: How many cases have been taken up, since the Independent Contractors Act has been in place, for harsh and unjust practice? There is a body of evidence and views that the legislation is unmanageable and that, given the legal costs involved, it's unrealistic for somebody getting paid as little as \$6.67 an hour to take those sorts of matters forward.</p> <p>Mr Hehir: I'd need to take that on notice. I don't have those figures in front of me. I'm not sure whether I've got the capacity to get the number of cases, but we'll see what we can find for you.</p> <p>Senator SHELDON: I'm not aware of any cases that have been taken up. I stand to be corrected, but I'm not aware of any cases, and for a long period of time I have kept an eye out for them.</p> <p>Mr Hehir: As I said, I'll take that on notice.</p>	16/07/2021
9	EEC-BE21-09	Hansard	Louise Pratt	1/06/2021	53-54	Attorney-General's Department	Fair Work Act - national minimum wage objective	<p>Senator PRATT: May I ask, Minister, in the context of the Reserve Bank's desire to see wages lifted so that it has more capacity for monetary policy to influence other indicators in the economy, why again do you think it's appropriate that the government not make a submission? The government has a legitimate interest in bringing together evidence for the commission that serves the interests of the nation.</p> <p>...</p> <p>Mr Hehir: That's my understanding, Minister. Certainly a succession of governments have been clear about providing the economic circumstances and the data to the commission and its predecessors and allowed the commission to actually make the decision about what the increase should be. I don't recall a government advocating for a particular increase. In this case I don't believe the government was advocating for no increase; it just suggested that the commission should be cautious.</p> <p>Ms Durbin: Senator, if I can just add, the specific provisions that the expert panel needs to take into account are specified in the modern award objective and also the national minimum wage objective, which are spelt out in the Fair Work Act. I'm happy to provide those on notice, but they are in the legislation, about the range of factors that the expert panel needs to take into account.</p>	16/07/2021
10	EEC-BE21-10	Hansard	Anthony Sheldon	1/06/2021	59	Attorney-General's Department	Wages growth	<p>Senator SHELDON: Mr Hehir, I appreciate that they are key factors that go to wages growth, but isn't it clear that if we're relying on productivity, through those mechanisms you've mentioned, and only half of that is actually going towards wages growth—a productivity increase of 26 per cent since 2000 and only a 13 per cent increase in real wages—doesn't that say that the setting by the government is failing?</p> <p>Mr Hehir: No, not necessarily. I think part of the issue there is likely to be an increase in terms of the percentage of people on the award system, as opposed to in the enterprise bargaining system. The government certainly was seeking to make amendments to the bargaining provisions of the Fair Work Act to try and encourage bargaining, and that's certainly where we see higher rates of pay being negotiated as part of improving productivity in enterprises. As I said, I haven't looked at the other side of that equation, so I'm not sure how much the capital cost increase has been as a proportion of delivering that 26 per cent increase in productivity. I apologise, but I can take that on notice.</p> <p>Senator SHELDON: You're more than welcome to take it on notice, but the figures about what's happening with productivity in comparison with wages are commonly known. It raises the simple question that, with the strategy that has been adopted, there is not the framework to get wage increases up. And even the government's own budgetary forecast is that real wages will decline in this country. The middle class is going to shrink in this country under this government's watch. We're going to be passing onto our kids less conditions, less rights and less pay than was handed onto us. Doesn't that concern you, as a policy setting?</p>	16/07/2021

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11	EEC-BE21-11	Hansard	Anthony Sheldon	1/06/2021	63	Attorney-General's Department	Wage theft	<p>Senator SHELTON: We asked some questions earlier in the day in other discussions regarding wage theft. I want to come back to that issue and raise some additional matters. As we discussed earlier today, the wage theft bill had been abandoned by the government. As reported, it was abandoned because there was a refusal for other parties to agree with other aspects to the omnibus bill. I want to clarify the government's policy position now. Does the government still believe it has to change something like greenfield agreements before it can criminalise wage theft?</p> <p>Senator Stoker: The government's got a zero tolerance policy for the exploitation of workers, and that includes people who underpay wages or entitlements. We've already taken action to prevent wage underpayment and protect employees from non-compliant employers by increasing the Fair Work Ombudsman's evidence gathering powers and penalties for breaches of the Fair Work Act by up to tenfold under the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 and we have committed over \$160 million in new funding to the Fair Work Ombudsman since 2016. Those are both strongly directed at making sure people are not exploited in that way. The Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021 was designed to help businesses to create jobs, drive wage growth and improve productivity, and we remain committed to achieving those objectives. Schedule 5 of that bill proposed reforms that would strengthen the compliance and enforcement framework under the Fair Work Act. So we are, through the Fair Work Ombudsman, continuing to take strong and substantial action to promote compliance with workplace laws and to recover unpaid entitlements. I'll leave that there.</p> <p>Senator SHELTON: Thanks for your answer, but it actually doesn't quite go to the question I'm asking. It was on the bill that was abandoned by the government regarding criminalising wage theft. Is there a precondition that greenfield agreements need to be agreed to, as proposed by the omnibus bill?</p> <p>Senator Stoker: I'll take it on notice</p>	16/07/2021
12	EEC-BE21-12	Hansard	Benjamin Small	1/06/2021	70	Attorney-General's Department	Representation of workers in bargaining processes - un/registered unions	<p>Senator SMALL: So it's true that both a registered and an unregistered union can represent workers in a bargaining process?</p> <p>Ms Volzke: They certainly can. On the unregistered side and in bargaining, I'd have to take that question on notice, but I understand that there is a mechanism for an unregistered organisation to assist at the bargaining table, but certainly they don't get the automatic rights that come when you're entitled to represent the members of unions who are registered.</p>	16/07/2021
13	EEC-BE21-13	Hansard	Anthony Sheldon	1/06/2021	72	Attorney-General's Department	FWO - underpayments recuperated	<p>Senator SHELTON: Thank you for that answer. What was the total amount of underpayments recuperated by the Fair Work Ombudsman?</p> <p>Ms Saint: In 2019-20, \$123 million was recovered by the Fair Work Ombudsman in relation to workers. There were 952 compliance notices, which recovered \$7.8 million in unpaid wages. There was a 250 per cent increase in the number of compliance notices.</p> <p>Senator Stoker: Senator Sheldon, can I add something to that, please. Rather than being asked to do a back-of-the-napkin kind of comparison here, why don't we take that on notice so that we can make sure that we're comparing apples with apples and properly examine the way that the figure in the PwC report is arrived at to make sure that we give you a useful and accurate answer to that one?</p> <p>Senator SHELTON: Yes, we're comparing a truckload of apples with how many apples we have turned around and taken off the tree.</p> <p>Senator Stoker: Respectfully, we don't actually know that.</p> <p>Senator SHELTON: If there's a 93—</p> <p>Senator Stoker: It might be apples and it might be oranges, because we don't have the data that's being used there before us to be able to examine. We're very happy to give you that answer, but it might be better to do it on notice.</p>	16/07/2021

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14	EEC-BE21-14	Hansard	Deborah O'Neill	1/06/2021	75	Attorney-General's Department	FWO - wage theft	<p>Senator O'NEILL: If all of that can happen, Mr Hehir, I would like you to take on notice what the number is, from what research, that you and the Fair Work Ombudsman, in concert, in discussions and in any briefings to the minister, have estimated to be the scale of wage theft. You cannot be telling me that, on mere anecdote, the government has made these commitments that they are worried about wage theft and they want to bring in legislation. There's got to be a number. So can you take that on notice. Senator Stoker, I'm sure that you, like me, would remember the chaos of the industrial relations omnibus bill as it was being advanced in the Senate on that evening not so long ago—</p> <p>Senator Stoker: I don't remember the bill being in chaos, but I do remember that there were different people in the room with different positions—if that's what you are referring to? I'm not clear exactly what you mean.</p> <p>Senator O'NEILL: It was the way in which it advanced and the grey—and you know, but perhaps people who are watching this or interested in parliament might not know, about that. Say a bill comes forward, especially a complex bill, such as an omnibus bill—which is like a bus: you load a whole lot into it and you drive it all through as best you can. For that bill, the grey, which was for the Senate to work through, was ordered in a particular way. When we came to the Senate to work our way through that legislation in the way we normally do, this bill was so contested and everything was in such upheaval that the grey was not followed in the order that it was presented to the Senate. There was movement backwards and forwards, backwards and forwards. That chaos is absolutely memorable for me, and I think anybody who looked at the footage would concur. There's the statement that Senator Sheldon put on the record; he was quoting the employment minister, Stuart Robert, on 14 May saying on Sky News that wage theft, unfortunately, was not able to be gotten through the Senate.</p> <p>Senator Sheldon asserted that that statement was not true. My question is: in all of that chaos of amendment and change that was going through the Senate that evening, when did the government actually test the numbers of the Senate on the wage-theft element of their omnibus bill?</p> <p>Senator Stoker: I'll take that last part on notice, but the more important thing I'd like to say at this point is that you're asking me to reach certain conclusions on the basis of a quotation you've given me from something that Minister Robert said, or is alleged to have said, but in circumstances where my checking of the quote that was presented to this committee, of Mr Tudehope, in its context is rather different. I would prefer to see the original before I answer that aspect of your question.</p>	16/07/2021
15	EEC-BE21-15	Hansard	Anthony Sheldon	1/06/2021	77	Attorney-General's Department	Industry funds report - 'Overdue: time for action on unpaid super'	<p>Senator SHELDON: So \$3.6 billion was in unpaid super, 30 per cent of all employees, on average each worker misses out on four months of their super or \$1,489. Without action unpaid super and the loss of earnings will reach \$66 billion by 2024. Those figures are staggering. This is an industry body. The employers have agreed that this is an appropriate study. The workers' representatives agreed this is an appropriate study. An independent study has taken place and it has come up with these figures, but you won't have a figure us for what the underpayments are in superannuation.</p> <p>CHAIR: Senator Sheldon, Senator Stoker has the call and considering both your opening remarks and your closing remarks that bookended that question I think Senator Stoker will be entitled to respond to those comments. Senator Stoker.</p> <p>Senator Stoker: Thank you, Chair. Senator Sheldon, you've cast a lot of aspersions on me in your very question. I value the work that many unions do. When they are at their best they do good work. I can think of some outstanding ones in Queensland, like the Nurses Professional Association of Queensland and many others. So I reject the first of the aspersions in your question. The last of them was to assume I don't know the answer to the question before you had asked it. I will have to reject that part too. I am very happy to comment on the reports that you would like to refer to, but I can't do them in the dark. If you would like to provide those reports to me, I'm very happy to look at them and comment on them, but, in the absence of you providing a copy, I'm going to have to take that on notice.</p>	16/07/2021
16	EEC-BE21-16	Hansard	Louise Pratt	1/06/2021	81	Attorney-General's Department	Ovato and FEG - liabilities to employees	<p>Senator PRATT: As we discussed at the last estimates, the liabilities to employees were at some \$90 million. Is that correct?</p> <p>Ms Saint: I would have to check the figure for the full group.</p> <p>Senator PRATT: That was for all employees, as I understand it.</p> <p>Ms Saint: Yes, of the entire entity. I'll take that on notice, just to confirm that. I can come back.</p>	16/07/2021

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17	EEC-BE21-17	Hansard	Louise Pratt	1/06/2021	81	Attorney-General's Department	Ovato and FEG - separate entity becoming insolvent	<p>Mr Hehir: It's not the scheme of arrangement that's eligible. It's the portion of the company that's set up as a separate entity, if it wasn't previously, that becomes the insolvent company. If a company is insolvent, that's when we are able to act and pay the employees their entitlements.</p> <p>Senator PRATT: In how many cases has that happened previously?</p> <p>Mr Hehir: This is the first one that I'm aware of under the FEG Act, but I'd need to confirm that.</p>	16/07/2021
18	EEC-BE21-18	Hansard	Louise Pratt	1/06/2021	82	Attorney-General's Department	Ovato and FEG - verbal contact	<p>Senator PRATT: In the context of those initial stages, if that's when you received it in writing, did you have any verbal contact with Ovato about the possibility that they might have raised the idea of the use of FEG before that date? I certainly spoke to workers about it on site before that date, because I was well aware that it might be the eventuality for workers that they might need to draw on FEG.</p> <p>Mr Hehir: I might need to take this on notice. I am aware that there were earlier discussions about the company and its viability. I'll need to check who those discussions were with and the dates of those discussions. I'll take that on notice because I need to check the details of that. That was about the viability, which would then flow on to the potential for FEG, so that's the link.</p> <p>Senator PRATT: Yes, that's right. So early discussions about the viability, with or without FEG. I can only assume that if they were earlier discussions about viability they would have included FEG. Did the department have any discussions with Ovato about their intention to apply for a scheme of arrangement once you became aware of it? What was the substance of those discussions?</p> <p>Mr Hehir: Before I pass to Ms Saint, I might just clarify. I'm not sure the viability discussions specifically discussed or raised FEG. I'm suggesting to you that I'm aware there were viability discussions. I'll take that on notice and try and determine the detail of those discussions. I'm not saying that there was a FEG discussion at that point; I'm just saying there was a viability discussion, and there is the potential that it may have flowed to FEG, which I need to check.</p>	16/07/2021
19	EEC-BE21-19	Hansard	Louise Pratt	1/06/2021	82	Attorney-General's Department	Ovato and FEG - memo	<p>Mr Carr: On 28 July there was a telephone conversation, and we received a memo with a broad outline on 29 July.</p> <p>Senator PRATT: Was there any mention of FEG in that memo on the 29th?</p> <p>Mr Carr: I would have to take it on notice, Senator.</p> <p>Senator PRATT: Was there any mention of the liability of the company or workers' entitlements in that memo?</p> <p>Mr Carr: I could take it on notice, Senator. The memo was very much a broad concept or a contemplation rather than an anticipation, if I can put it that way. We let the representatives know that there just wasn't enough detail for us to convey a view on their contemplation. We said we'd need the sort of detail that they would provide if they made an application.</p> <p>Senator PRATT: When did you get that detail?</p> <p>Mr Carr: We got further detail on 9 November in a more detailed memo that still summarised the proposition, not the application itself. We didn't get the application until overnight on the 12th, the hearing being on 13 November.</p> <p>Senator PRATT: On the 12th, okay. What mention was there in that documentation of Ovato's attempt before the Fair Work Commission to revert to the award?</p> <p>Mr Carr: I don't recollect. That wasn't the focus of any of my team's discussion with Ovato.</p> <p>Senator PRATT: It's might not be in the terms of your scheme—your discussions with Ovato, but it's surely relevant to the entitlements of the workers that FEG pays out entitlements to.</p> <p>Mr Carr: It could be. I'm happy to take it on notice.</p>	16/07/2021

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20	EEC-BE21-20	Hansard	Louise Pratt	1/06/2021	83	Attorney-General's Department	Ovato and FEG - undertakings from Ovato	<p>Senator PRATT: ... In that context, may I ask please—did the department seek any undertakings from Ovato, or did Ovato seek any undertakings from the department in relation to their scheme of arrangement? For example, did they request that you not intervene in the case?</p> <p>Mr Hehir: Senator, we're working across two things. As to the conversations about the viability that I referred to earlier, I would need to check the details of those, because it's entirely possible they were looking at how they maintain viability, which could have looked at their enterprise agreement or alternatives to that. So I'd need to take that on notice to get the detail of that.</p> <p>Senator PRATT: Logically, yes, their viability might be affected by what's in their enterprise agreements, and the entitlements might be affected by that, but, frankly, their viability is certainly less affected by what's in their enterprise agreement if they have an understanding that FEG is going to pay out those entitlements.</p> <p>Mr Hehir: As I said, I would need to take that on notice to see the detail of it.</p>	16/07/2021
21	EEC-BE21-21	Hansard	Louise Pratt	1/06/2021	85	Attorney-General's Department	Ovato and FEG - application to terminate agreement	<p>Senator PRATT: Did the department give any information or advice to Ovato related to their application to terminate their agreement?</p> <p>Ms Durbin: I would need to take that on notice.</p>	16/07/2021
22	EEC-BE21-22	Hansard	Louise Pratt	1/06/2021	86	Attorney-General's Department	Ovato and FEG - departmental involvement	<p>Senator PRATT: What interest did the department take? Clearly it showed an interest to some extent on the viability of Ovato. What interest did the department take in the wellbeing of workers in their entitlements?</p> <p>Mr Hehir: In terms of the negotiations or matters before the Fair Work Commission, the department doesn't normally engage. I'll take it on notice, but I'm not aware of the department intervening into a matter that is appropriate for the Fair Work Commission to decide on such as an enterprise agreement, an application to terminate agreement or anything like that. But I can certainly take that on notice.</p>	16/07/2021
23	EEC-BE21-23	Hansard	Louise Pratt	1/06/2021	86	Attorney-General's Department	Ovato and FEG - intervention	<p>Senator PRATT: Does this issue not have a substantial framework issue related to it in terms of a precedence that's set where a company instead of going insolvent can trade its way out relying on the Fair Entitlements Guarantee?</p> <p>Mr Hehir: Those previous cases that you referred to, Senator, were under the Fair Work Act. This matter is a matter under the FEG Act, and our intervention before the Fair Work Commission would normally be a matter for the Fair Work Act. I can't recall any occasion where we've intervened recently except for maybe the Melbourne fire service agreement where we were looking at matters that related to indirect discrimination, from memory. So, yes—a framework issue. But we wouldn't normally intervene in a normal enterprise agreement process. I can't recall any, but I can take that on notice.</p>	16/07/2021
24	EEC-BE21-24	Hansard	Louise Pratt	1/06/2021	102	Attorney-General's Department	Migrant Workers Taskforce	<p>Senator PRATT: Three more since then, and only now do you write for a harmonised scheme? Is there any connection between years of record low wage growth and the presence of an exploited underclass of predominantly migrant workers in sectors like horticulture and food delivery? Are these issues related—a lack of wage growth, if you like, and failure to regulate labour hire?</p> <p>Mr Hehir: I'll take that on notice. I would observe that labour hire itself only accounts for a very small proportion of the workforce. I think it's in the order of 1.2 to 1.4 per cent at this point in time. It's consistently been under two per cent for a very long time. It's unlikely to be a driving factor at that scale. But we're certainly happy to take that on notice.</p> <p>Senator PRATT: Thank you.</p>	16/07/2021
25	EEC-BE21-25	Hansard	Anthony Sheldon	1/06/2021	103	Attorney-General's Department	Food delivery workers - Freedom to negotiate policy - wages	<p>Senator SHELDON: Every inquiry, every survey, every academic report, including Uber's own report, has come out with the fact that they're getting paid less than the minimum wage.</p> <p>Senator Stoker: That's not my understanding, but I'm happy to take that aspect on notice. I thought the Uber report said something in order of \$22 an hour, so perhaps we are at cross-purposes slightly—</p>	16/07/2021

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26	EEC-BE21-26	Hansard	Anthony Sheldon	1/06/2021	114	Attorney-General's Department	Wage theft - Adelaide BBS	<p>Senator SHELDON: Thank you very much, Chair. I appreciate that. In previous estimates we raised the issue of the website www.adelaidebbs.com, which was being used to publish online blacklists of Chinese workers who had spoken out about wage theft and abuse by their employer, Fun Tea. Is that blacklisting post still up on the website?</p> <p>Mr Hehir: I will just check with the officers. I think this is the question on notice that we were referring to earlier.</p> <p>Senator SHELDON: Yes.</p> <p>Mr Hehir: I think it was 40, from memory.</p> <p>Senator SHELDON: I'm mindful of time. I'd like everyone to be able to get out at 11. If we can keep the answers concise it would be of assistance.</p> <p>Mr Hehir: Yes. I'm not sure whether I've got anyone here. I might need to take it on notice as to whether that website is still up.</p>	16/07/2021
27	EEC-BE21-27	Hansard	Anthony Sheldon	1/06/2021	115	Attorney-General's Department	Blacklisting workers	<p>Senator SHELDON: I'll go to a separate question. Is there any other government agency that has the power to compel the operator of the website to take the blacklisting posts down?</p> <p>Mr Hehir: I'd need to check. I'm not aware of that, off the top of my head, but I'm very happy to check. I'll need to take that on notice.</p> <p>Senator SHELDON: Is it possible to come back to us tomorrow?</p> <p>Mr Hehir: I can see what I can find out as quickly as I can.</p> <p>Senator SHELDON: Does the Fair Work Ombudsman or any other government agency have the power to identify the author of the blacklist and take action against them, if they don't fit into one of the narrow relationships covered by the adverse action provisions in section 342 of the Fair Work Act?</p> <p>Mr Hehir: In terms of their ability to find out the identity, I do believe they've got some coercive powers but I'm not sure they apply in these circumstances. Can I take that on notice?</p> <p>Senator SHELDON: If you're able to give that answer tomorrow that would be of assistance. Obviously this is deeply concerning for those workers and also for the precedent that this sets. At this point, the Attorney General's Department, you're taking on notice you're unaware of legal recourse for workers who have been blacklisted online for speaking out about their rights. If you aren't able to connect the principal employer with the blacklisting, is there still capacity—and I want to be clear—for the blacklist to be withdrawn and still capacity for those who created the blacklist to have action taken against them either by the Fair Work Ombudsman or by another agency?</p> <p>Ms Volzke: I think we'd have to take that on notice, but certainly it would require there to be some sort of a relationship. The adverse action provisions don't apply at large, so it has to be adverse action taken between various actors. It will depend.</p> <p>Senator SHELDON: In that case, if there's not a seen connection, there can't be action taken against the blacklisters. I'm not saying if there's no proven connection between the employers and that blacklist, but there is a blacklist that exists regarding the subject matter where somebody's exercising their rights. If I understand correctly, you're not aware that there is an avenue for someone to pursue an action against the blacklister who created the blacklist, firstly, to take it down and secondly, to retract it and potentially some deterrent.</p> <p>Mr Hehir: I might take that one on notice. I think we've answered in relation to the Fair Work Act. I am conscious</p>	16/07/2021
28	EEC-BE21-28	Hansard	Deborah O'Neill	2/06/2021	5	Safe Work Australia	Boland Review recommendations - progress	<p>Senator O'NEILL: Ms Baxter, last night we got a very useful table, in response to the 34 recommendations, to outline what's going on. Could you provide the committee with a Gantt chart indicating when you think the likely progress of action, arising from the matters that were agreed in the communique, and where legislation is required in which particular jurisdictions? That would give us a sense of what's to come and we can keep a close eye on how that progresses.</p>	16/07/2021
29	EEC-BE21-29	Hansard	Benjamin Small	2/06/2021	9	Safe Work Australia	Industrial fatality rate in the ACT	<p>Senator SMALL: How has the industrial fatality rate tracked in the ACT since the introduction of those provisions?</p> <p>Ms Bryant: I don't have a time series by jurisdiction so I may have to take that on notice to provide to you.</p> <p>Senator SMALL: Yes, please.</p>	16/07/2021

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30	EEC-BE21-30	Hansard	Benjamin Small	2/06/2021	10	Safe Work Australia	Prosecutions for category 1 offences	<p>Ms Johnston: The UK have a corporate manslaughter offence, which they inserted into their legislation in 2007. They did a 10-year review in 2017. That showed that there was no increase in prosecutions. What they expected to occur hadn't occurred. There were questions whether that was a success. We did look at that experience. There aren't many other international experiences that have corporate manslaughter, but we did look at that and the evidence was that corporate manslaughter provisions don't have the effect necessarily that was put forth by some in the consultation RIS and in the decision RIS in improving safety outcomes for workers and workplaces.</p> <p>Senator SMALL: And that was based on more than 10 years of lived experience in the UK?</p> <p>Ms Johnston: Yes.</p> <p>Senator SMALL: Is it true to say that employers can already be jailed for a successful prosecution under a category 1 offence using the model WHS laws?</p> <p>Ms Johnston: Yes. Currently a person can be jailed for up to five years. Essentially the only difference between a category 1 offence and an industrial manslaughter offence is that someone doesn't have to have died. The outcome part isn't in there, otherwise the offence is the same. You're prosecuted for the failure to provide a safe system of work—the risk element—rather than the outcome. That's the significant difference.</p> <p>Senator SMALL: Which objectively I think is obvious to most. Are you aware of successful prosecutions for category 1 offences in Australia?</p> <p>Ms Johnston: Yes, there have been successful prosecutions for category 1 offences to date. For the details I'd have to take that on notice or flick through my papers.</p> <p>Senator SMALL: Can you give us a flavour of what that looks like?</p> <p>Ms Baxter: I think we'll have to take that on notice. We don't have that level of detail with us today, I'm afraid, so we'll gladly provide that on notice.</p> <p>Senator SMALL: Thank you. I think it would be helpful for the public record.</p>	16/07/2021
31	EEC-BE21-31	Hansard	Louise Pratt	2/06/2021	13-14	Attorney-General's Department	Additional laws or powers within the Sex Discrimination Act	<p>Senator PRATT: No. I'm only interested here in the assessment against the work health and safety positive duty versus this particular recommendation of amending the Sex Discrimination Act.</p> <p>Mr Hehir: The deputy secretary who's leading the response isn't here today. I will—</p> <p>Senator Cash: That's because she was here yesterday.</p> <p>Mr Hehir: No, she was here last week, with AGD.</p> <p>Senator Cash: Yes, sorry. It sits, Chair, within Attorney-General's, under the Human Rights Commission, as you'd be aware. The Sex Discrimination Commissioner could not give evidence last week, obviously, due to a personal matter that occurred, but we did have the President of the Human Rights Commission, Rosalind Croucher, in the correct department, last week, responding to these questions.</p> <p>Senator PRATT: I'm sorry, Senator Cash, but you are justifying pointing me off to another department—</p> <p>CHAIR: No. I think the minister's assisting us.</p> <p>Senator PRATT: but, really, you are considering whether or not our work health and safety laws are already adequate, which means this is central to this hearing at this particular point in time for Safe Work Australia, because you have to deliberate on whether what Safe Work Australia already does, or is going to do, is an adequate justification for not implementing that other recommendation.</p> <p>Mr Hehir: Senator, again—</p> <p>CHAIR: After this answer, what we might do is go to Senator Davey.</p> <p>Mr Hehir: the government response clearly requires the contemplation of additional laws or powers within the Sex Discrimination Act. It's entirely appropriate that the team responsible for the Sex Discrimination Act undertake that work. I will take on notice the timing of the likely response.</p>	16/07/2021

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32	EEC-BE21-32	Hansard	Anthony Sheldon	2/06/2021	16	Safe Work Australia	Dust Disease Taskforce report - interim recommendations	<p>Senator SHELDON: Take me through the recommendations that have been implemented that you're aware of from Safe Work and the interaction with that because clearly there is, as you've said, a capacity for these recommendations to be carried out prior to 30 June. That was a recommendation from that interim report.</p> <p>Ms Baxter: Certainly. I think it might be more useful, and I can certainly speak more authoritatively, if I talk about what Safe Work Australia is doing, rather than try to weave it into those interim recommendations.</p> <p>Senator SHELDON: Can you identify both, where they weave into the recommendations?</p> <p>Ms Baxter: As I said, I don't have the interim recommendations before me today. I can take this on notice and come back to you.</p> <p>Senator Cash: Because it sits with Health.</p>	16/07/2021
33	EEC-BE21-33	Hansard	Anthony Sheldon	2/06/2021	18-19	Attorney-General's Department	Mable - WHS responsibility for contractors	<p>Senator SHELDON: Ms Baxter, I respect what you've said to the minister. Minister, this is a critically important issue, because, as it stands at the moment, Mable received \$5 million from the federal government to expand its operations of gig work, where these workers are not counted as employees; they're counted as contractors. Companies that compete with them are counted as employees, covered by what would be considered normal workplace health and safety regulations and accountability. But also there are important questions about responsibility. Mable says it is not responsible for its contractors. In those circumstances, who's responsible if there is a breach of occupational health and safety, particularly during this period of the pandemic, for appropriately carrying out its responsibilities regarding inoculation, let alone—</p> <p>CHAIR: After this answer, we will need to finish up with Safe Work Australia to go onto the next witnesses.</p> <p>Mr Hehir: I think Ms Baxter has been clear. Again, her framework is that she is the chief executive of a national body, with members who direct their work. The Australian government is only one of those members. In relation to this specific issue, I'm happy to take it on notice to have a look at the detail of the operations. I think we discussed yesterday that it's possible for a range of arrangements to be in place. Ms Johnston identified that there is work underway, looking at the broader platform arrangements, including the work that New South Wales is undertaking, predominantly around riders and the platform economy there. I'm happy to take it on notice, but, again, as with Ms Baxter, I don't have the detail in front of me of their operations, but we can have a look and see what we can identify.</p> <p>CHAIR: Thank you for that.</p>	16/07/2021
34	EEC-BE21-34	Hansard	Anthony Sheldon	2/06/2021	19	Attorney-General's Department	WHS responsibilities for gig workers - time line	<p>Senator SHELDON: Just a brief question: Mr Hehir, in dealing with this issue of gig workers and responsibilities, there is a degree of urgency here. Is there a time line on that?</p> <p>Mr Hehir: Again, this matter was discussed at the work health and safety ministers meeting. I don't think a time line was put on it, but there was certainly a clear view from all the work health and safety ministers that this work was a priority. I can take it on notice to see whether there is a time line. I'm happy to consult with the New South Wales government officials. But the very clear message from every single minister at that meeting was that this is a priority piece of work.</p> <p>Senator SHELDON: I would be pleased if you took on notice the urgency of getting the liabilities—for example, in the situation of Mable, the participant or the client.</p>	16/07/2021

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35	EEC-BE21-35	Hansard	Deborah O'Neill	2/06/2021	19	Safe Work Australia	Pneumoconiosis - monitoring and statistics	<p>Senator O'NEILL: You would be aware of the black lung report, which is a few years old now. In the midst of taking evidence, it became apparent that the monitoring of dust was a very significant problem. In fact we had evidence about the Grasmere mine, where people were not wearing dust monitors at all for a period of about three years. Then, when they were forced to wear them, they only wore them on the day when there was no mining going on and there was actual cleaning of the site being done, maintenance of equipment. My questions are twofold in the context of that. With regard to silicosis and pneumoconiosis and any other diseases, could you give the committee an update of the type of monitoring that is going on across the country to actually give accurate records of what's happening in those workplaces? I want to understand how robust the actual monitoring of these workplaces, including small, medium and micro businesses, actually is. Could you give the committee an update on the number of people with pneumoconiosis, where they're located and what practices are in place to prevent pneumoconiosis, in particular, in coalmining in both New South Wales and Queensland?</p> <p>Senator ROBERTS: Chair, can I get a copy of that response?</p> <p>CHAIR: It will be on notice. But, yes, if Safe Work Australia could make sure that Senator Roberts gets a copy of your response. Ms Baxter, thank you very much.</p>	16/07/2021
36	EEC-BE21-36	Hansard	Deborah O'Neill	2/06/2021	26-27	Coal Mining Industry (Long Service Leave Funding) Corporation	Labour hire companies	<p>Mr Kembrey: Yes. There are a couple of different categories of people who are covered by the scheme. Primarily, there are the group of people employed by the producers who work at black coalmine sites across Australia. There are also those other categories you talked to where the employers weren't traditionally seen, necessarily, as black coalmine producers but they are in the industry and the employee's duties are covered by the board. So if they're on the black coalmine site or they're doing duties that contribute to the mining of black coal, working in the black coal industry, they're covered. That covers your labour hire companies. There are myriad types of employment under that. Some of that's disputed by some of those companies, and there's some ongoing regulatory action in that regard. It often comes down, in those cases, to a set of facts about what they were doing and where they were doing it at what particular time. That's what our role is. We assess that and make some determination about the periods of time they were covered.</p> <p>Senator O'NEILL: If you could provide, on notice, some detail with some real clarity about who's out, who's in, where the disputes lie and who's being currently excluded, I would be very interested.</p>	16/07/2021
37	EEC-BE21-37	Hansard	Deborah O'Neill	2/06/2021	27	Coal Mining Industry (Long Service Leave Funding) Corporation	Payment of levies - employer responsibility	<p>Senator O'NEILL: My other question is based on the information you provided this morning to Senator Roberts. You indicated a significant increase in your workforce from 60 to 160 and an effort since 2017 to get companies onboarded, to be paying this levy that they should have been paying for much longer, since 2017. In your estimation, how many workers do you believe have been robbed of their long-service leave in the last eight years because the governance of this system was not properly overseen by the government?</p> <p>Mr Kembrey: That's a difficult question because we don't know what we don't know. But for the employees who come into the system, the ones referred to by Ms Perks, those employers then also take responsibility for paying levies in the past. All their service is recognised. It might not have been recognised at that time, but once there's an acknowledgement that they were covered that's paid for and they get back recognition for that time period.</p> <p>Senator O'NEILL: What about companies that no longer exist? You've got an idea of what I'm after. I want a clear view of what's been going on, since 2013. How many companies, are you discovering, were around and may now be making up ground or were around and no longer exist, so we can have an accurate record of that?</p>	16/07/2021

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38	EEC-BE21-38	Hansard	Anthony Sheldon	2/06/2021	31	Comcare	Independent medical examinations (IMEs) - reassessment of claims at AAT	<p>Senator SHELDON: I want to go to another matter. In March additional estimates, we spoke about a doctor who had 66 complaints made against him going back to 2000 and who was still being used by Comcare conduct independent medical examinations—IMEs—as recently as last year. In response to question on notice 98, you said the doctor had been involved in 60 total claims going back to 2000, 22 of the 60 had been rejected they were reviewing some of the 22 claims which had relied upon his assessments. Have any of the 22 rejected claims been overturned or any of them been actively reassessed?</p> <p>Ms Weston: Of the total number of claims that the doctor was involved in, the employee was successful in the majority of those. In 22 they weren't successful. Seventeen of those unsuccessful ones have gone on to merits review by the AAT or further, and so they have had an independent body looking at them.</p> <p>Senator SHELDON: Has the AAT made any decisions on any of those cases that you're aware of?</p> <p>Ms Weston: They would have. We can take on notice to provide you that information.</p>	16/07/2021
39	EEC-BE21-39	Hansard	Anthony Sheldon	2/06/2021	32	Comcare	Comcare - complaints about doctors who conducted their Independent medical examination (IME)	<p>Senator SHELDON: Can you tell me how many complaints Comcare has received about doctors in IMEs in each of the last five financial years?</p> <p>Ms Weston: I can take that on notice. I can certainly give you details for the last two years.</p> <p>Senator SHELDON: You could take on notice for the last five years, but if you can give me the last two years that would be helpful.</p> <p>Ms Weston: Five years does require some manual work for us, but we will certainly try to do that.</p> <p>Senator SHELDON: If you want to give me the last two years now, that would be helpful. Thank you.</p>	16/07/2021
40	EEC-BE21-40	Hansard	Anthony Sheldon	2/06/2021	33	Comcare	Surveillance of claimants	<p>Senator SHELDON: I want to move to another question regarding surveillance and the surveillance of claimants. There have been some concerns raised with my office about claimants and requests to undertake frequent IMEs, as often as once a month, for various reasons. Is there a statutory minimum or maximum on how often someone would be required to go and appear in front of an IME? And, if there is or isn't, is there a recommended practice within Comcare processes?</p> <p>Ms Weston: As I've mentioned, we've reduced our incidences of IMEs significantly over the last period of time—I'm trying to remember the exact details—and our processes now strongly focus on where there are gaps in medical evidence or where there is something missing. We try to use their treating practitioner. Sometimes they come to us and they have just been to a GP and they might have some injury that requires specialisation: that would be an example of where we might need help from an IME to assess. We've also recently engaged more injury managers as employees in Comcare, as part of a team based approach, to help us with how we expect an injury of this type might proceed. That's another step we've taken. We do use our clinical panel, which is a consultant panel within Comcare, to help with those as well. I'm going to ask my colleague now about the potential of a once-a-month and whether he's seeing that at all.</p> <p>Mr Hughes: There is a legislative instrument that provides a limit on the number of IMEs that can be conducted, I think, within a one-month period. We should take that on notice to get you the detail of that. The contacts and complaints: the other part to add is that often we receive complaints from employees of government agencies for whom we manage the claims, and then there will be employees for self-insured licensees. Again it sort of goes back to the point about the more that we can hear about these complaints, the more they can be raised with us, then we've got channels with which they can be handled and managed.</p>	16/07/2021
41	EEC-BE21-41	Hansard	Anthony Sheldon	2/06/2021	33	Comcare	Comcare - surveillance policy and services	<p>Senator SHELDON: Thanks very much. I want to go to another line of questioning regarding surveillance. You have a surveillance policy on our website. It's 1½ pages—is that correct?</p> <p>Ms Weston: Yes, we do have a surveillance policy.</p> <p>Senator SHELDON: Does Comcare conduct surveillance itself, or is there a service contracted out to private investigators and similar firms?</p> <p>Ms Weston: We do not do much surveillance, if at all. I'll ask my colleague to comment on who provides it.</p> <p>Mr Hughes: Where we require surveillance, we would contract that.</p> <p>Senator SHELDON: On notice, could you provide a list of the firms Comcare engages for surveillance services?</p> <p>Ms Weston: Certainly.</p> <p>Senator PRATT: And perhaps how many surveillance activities you have undertaken.</p>	16/07/2021

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42	EEC-BE21-42	Hansard	Anthony Sheldon	2/06/2021	34	Comcare	Comcare surveillance	<p>Senator SHELDON: Yes, how frequently does Comcare engage in surveillance?</p> <p>Senator PRATT: For each month of the last three years, could you tell us how many surveillance activities you had active and the number of cases that you were looking at?</p> <p>Ms Weston: Certainly, but I would note, too, that our use of surveillance has significantly dropped over the last couple of years.</p> <p>Senator SHELDON: That would be helpful. Would you be able to give us how much Comcare spent on surveillance services in each of those last financial years?</p> <p>Ms Weston: I'll certainly check if we can do that.</p>	16/07/2021
43	EEC-BE21-43	Hansard	Anthony Sheldon	2/06/2021	34	Comcare	Types of surveillance	<p>Senator SHELDON: I just want to clarify the type of surveillance Comcare is paying for. Does it include online surveillance of social media and other activity?</p> <p>Mr Hughes: Going back the five years, we'd need to take that on notice so that we don't misrepresent what we have sought. It's my initial reaction that we haven't necessarily progressed in an online space, but I would want to check that before I answer categorically.</p> <p>Senator SHELDON: Does it include surveillance by contacting colleagues, friends, family, neighbours, employers or acquaintances of the claimant, to gather information?</p> <p>Ms Weston: We'll check on that when we have a look at the numbers.</p> <p>Senator SHELDON: Does it include physical surveillance, following claimants around on foot or by car? I guess we could also include by drone.</p> <p>Mr Hughes: That's the type of surveillance that I'm aware of, in the past. Again, we'll add that to our response to the question on notice.</p> <p>Senator SHELDON: Does it include taking photos or filming of claimants.</p> <p>Ms Weston: We'll include that in our response.</p>	16/07/2021
44	EEC-BE21-44	Hansard	Louise Pratt	2/06/2021	34-35	Comcare	Surveillance Policy	<p>Senator PRATT: Could you point us to that exemption?</p> <p>Mr Hughes: I don't have it in front of me, but, again, if we could take that on notice, we'd be happy to provide you with an example.</p> <p>Senator SHELDON: Can you show me where that is in the surveillance policy? I'd imagine that people who have concerns about improper surveillance would go to your surveillance policy and have a look there to see whether there's a contravention or not—for example, if someone did see someone peering through the window, or if there was an allegation that someone was peering through the window, or if there was a concern raised by children in the vicinity of a prowler. I'd imagine there would be something that says, 'Here are some definitive things that I can do.'</p> <p>Ms Weston: Yes, I take that comment, and it's something that we could potentially look at to be clarified further, as a result of looking at these matters that we've taken on notice.</p>	16/07/2021
45	EEC-BE21-45	Hansard	Anthony Sheldon	2/06/2021	35	Comcare	Surveillance complaints	<p>Senator SHELDON: Thank you. Does Comcare ever receive complaints regarding surveillance and how it's managed?</p> <p>Ms Weston: Well, there's not a lot of surveillance happening at the moment. We may have in the past. I can have a look at the last couple of years for you.</p> <p>Senator SHELDON: Thank you. Comcare is still engaging some surveillance contractors or firms. Are you aware which firms complaints have been made about?</p> <p>Ms Weston: We'll add that into that section to look at.</p> <p>Senator SHELDON: On notice, can you also give me a list of the firms that are still being utilised and that are the subject of complaints?</p> <p>Ms Weston: Yes, okay, we'll check that.</p> <p>Senator SHELDON: I'm not asking for specific details, but would you be able to give me an overview of what the complainants are saying? I'm not asking for details of the actual person.</p> <p>Ms Weston: To the extent that it's not identifiable, we'll work on that.</p>	16/07/2021

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46	EEC-BE21-46	Hansard	Anthony Sheldon	2/06/2021	35	Comcare	Claimants - surveillance tapes	<p>Senator SHELDON: It goes to my point. For such footage that's been taken by Comcare contractors, does the claimant have a right to access all of those surveillance tapes, or is it just to edited pieces that they may, under certain circumstances, get access to?</p> <p>Mr Hughes: Sorry, I missed the start of that question. Was that if it's related to a claim decision?</p> <p>Senator SHELDON: A claim or a fraud, yes.</p> <p>Mr Hughes: If we can consider the claim piece first—</p> <p>Senator SHELDON: Yes.</p> <p>Mr Hughes: If that's the material that's been taken and that's the material that's been relied on for the decision—my colleague has just advised me that the AAT have practice directions in this space as well, which we comply with when there's surveillance involved in an AAT matter—then my understanding is that a claimant is entitled, if they request it, to see all of that. Certainly, if we use that information for a decision that would be part of the decision reasoning that we use. In relation to a fraud, I think we'd need to take that on notice, in terms of how that would work.</p> <p>Ms Weston: It may need to be used for evidence, and it may need to follow evidentiary laws.</p>	16/07/2021
47	EEC-BE21-47	Hansard	Anthony Sheldon	2/06/2021	36	Comcare	Providing claimant with raw surveillance footage	<p>Senator SHELDON: Is the raw footage that's been taken by these investigators—these private contractors—available to the claimant?</p> <p>I can't say they all have great reputations, and I'm not suggesting you're using people that don't have a good reputation, but it does raise concerns about private investigators taking inappropriate footage. It isn't just a question of what's put on the claim form; I'm deeply concerned about whether the claimant has access to all the footage to see whether there's inappropriate behaviour. I am also deeply concerned that the rights of people under surveillance aren't clearly included here in terms of the sort of material that should be available to them and also the redress they clearly have when they consider inappropriate surveillance has been taken. So, my question is: would you provide a claimant with all the raw footage, not just the footage that's connected to the claim form?</p> <p>Ms Weston: I would like to take that on notice to clarify. But I do hear you about make some improvements to that policy, and it's something that we will certainly consider.</p>	16/07/2021
48	EEC-BE21-48	Hansard	Anthony Sheldon	2/06/2021	36	Comcare	FOI - raw surveillance footage claimants	<p>Senator SHELDON: Finally, can a claimant obtain surveillance footage or photographs through an FOI? I'm talking about the raw footage.</p> <p>Ms Weston: They would probably have some other avenues under the Safety, Rehabilitation and Compensation Act as well to obtain information from their own file, but freedom of information also allows people to access information about themselves.</p> <p>Senator PRATT: What kind of information is provided to the firm conducting the surveillance other than this surveillance policy?</p> <p>Ms Weston: There has not been a lot or any surveillance that I'm aware of in the last while, so we'll need to go back and have a look.</p>	16/07/2021
49	EEC-BE21-49	Hansard	Louise Pratt	2/06/2021	38	Comcare	Surveillance - appealing decisions	<p>Senator PRATT: In the course of the hearing, in terms of that finding, will it become apparent to the person who's appealing the decision that the source of that information is, indeed, surveillance?</p> <p>Mr Swainson: I believe so. I would have to take that on notice. I think both Ms Weston and Mr Hughes have given evidence that our use of surveillance in recent times is very, very limited. I would have to go back to more historical matters to comment on that.</p>	16/07/2021
50	EEC-BE21-50	Hansard	Louise Pratt	2/06/2021	38	Comcare	Methods of surveillance	<p>Senator PRATT: What were the reasons for the reduction in that surveillance? Ms Weston, I think you said you were relying on other methods. What other methods are they? Are they surveillance in and of themselves in any case? They might not be the same kind of surveillance but checking up on someone's Facebook pages, in my view, is still a form of surveillance. What other methods are you using?</p> <p>Ms Weston: As I've already said to you, there is very limited surveillance, if any, that's going on currently. But I have said that I'll take that on notice to clarify, although there is the fraud element that I will need to confirm because, obviously, that needs—</p>	16/07/2021

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51	EEC-BE21-51	Hansard	Deborah O'Neill	2/06/2021	41	Comcare	Comcare's cases at the AAT fare	<p>Senator O'NEILL: Thank you. With reference to the AAT, I know Senator Sheldon has put some questions on notice. One of the things we saw with robodebt was that the AAT was delivering information and told the government very early in the process of robodebt that they were in breach of the law. But that information didn't flow through the system and it didn't get to be made public; there were barriers. In terms of the AAT matters that you report to us on, could you give an indication of not only the outcomes but any reports to ministers about what's happening at the AAT with regard to Comcare cases? You don't need to do it now, just on notice if you can because I think we're going to run out of time.</p> <p>Ms Weston: Can I just confirm you're asking for information about how Comcare's cases at the AAT fare? Is that what you're after?</p> <p>Senator O'NEILL: Yes, and any reports that you've sent up.</p>	16/07/2021
52	EEC-BE21-52	Hansard	Anthony Sheldon	2/06/2021	41	Comcare	Improvement notice in relation to mental health supervision and training for the Department of Home Affairs	<p>Senator SHELDON: Has there been an improvement notice on the training that's required by the Department of Home Affairs and International Health and Medical Services on the supervision and training of staff in relation to mental health issues?</p> <p>Ms Weston: I think I should take that on notice, because I'm a bit worried about it impacting on the commentary on this particular matter.</p> <p>Senator SHELDON: I would like what detail you can provide on notice, but—</p>	16/07/2021
53	EEC-BE21-53	Hansard	Anthony Sheldon	2/06/2021	42	Comcare	Improvement notice- Department of Home Affairs and International Health and Medical Services	<p>Senator PRATT: Otherwise you would have to put in a claim for public interest immunity.</p> <p>CHAIR: I think Ms Weston has said she will take it on notice, to the extent that she's able to answer the question.</p> <p>Senator SHELDON: Can I ask the question simply: has there been an improvement notice served on the Department of Home Affairs International Health and Medical Services?</p> <p>Ms Weston: I will take that on notice.</p> <p>Senator SHELDON: You're not aware? That's a pretty big matter.</p> <p>Ms Weston: I think the case is that it hasn't, but I would like to take that on notice.</p> <p>Senator SHELDON: Do we know who the provider of the training is?</p> <p>Ms Weston: That may be something that's of significance to this matter. I might take that on notice for when we're able to provide that information.</p> <p>Senator SHELDON: I gather we haven't got that information now on who did the training?</p> <p>Senator STOKER: She's saying it's sub judice.</p> <p>Ms Weston: I could take that on notice and see whether we would provide that.</p>	16/07/2021
54	EEC-BE21-54	Hansard	Anthony Sheldon	2/06/2021	42	Comcare	Improvement notices - Home Affairs and International Health and Medical Services	<p>Senator SHELDON: It's a serious matter, obviously, for charges to be laid. I appreciate the fact it's been dealt with, as we can see on the surface, in a diligent way—trying to get this matter dealt with. Those charges are about practices that are occurring within detention centres. Has there been an improvement notice, or is there further risk for the department, with both onshore and offshore detention centres, if there hasn't been an improvement in how it handles these matters? The department I'm referring to is the Department of Home Affairs and the International Health and Medical Services?</p> <p>Ms Weston: I have taken on notice whether there have been any improvement notices. We obviously engage with the Department of Home Affairs in terms of the safety systems that are in place in detention centres. We continue to work with Home Affairs on that, so I could also take on notice work we have been undertaking recently with the Department of Home Affairs.</p>	16/07/2021
55	EEC-BE21-55	Hansard	Deborah O'Neill	2/06/2021	43	Comcare	Inquiry relating to Fair Work Commission compliance with the Work Health and Safety Act	<p>Senator O'NEILL: Can you reveal the findings of your investigation thus far?</p> <p>Ms Weston: I don't want to compromise the current inquiry and potentially prejudice any further regulatory action that we might take. I might take that on notice and see if the timing is such that I can provide you further information. Of course, the Fair Work Commission itself will be in receipt of any report or whatever that comes out of our inquiry, and so obviously they're someone too who could be approached to provide—</p>	16/07/2021

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56	EEC-BE21-56	Hansard	Louise Pratt	2/06/2021	45-46	Comcare	Airservices Australia firefighter practical driver training /TRA work and enforcement of WHS regulations	<p>Senator PRATT: So they are reinstated. Do you know when they were last provided with practical driver training by a qualified professional driving instructor?</p> <p>Mr Napier: We don't have that detail.</p> <p>Ms Weston: We will take that on notice.</p> <p>Senator PRATT: I can put these other questions on notice. Will Comcare review this TRA work and enforce WHS regulations in the context of ensuring passengers and firefighters are safe?</p> <p>Mr Napier: We will take that on notice and provide a detailed response.</p> <p>Senator PRATT: In terms of that TRA analysis, could you also make inquiries in relation to the minimum safe crew sizes. I'm concerned that Airservices conducted an analysis of minimum crew sizes and found that their current crew sizes present an extreme risk under their own SMS and risk management policies. Is that something you're aware of?</p> <p>Mr Napier: I'd need to look at the specifics of that. If you could put that question on notice, I'm more than happy to follow that up.</p> <p>Senator PRATT: Okay.</p>	16/07/2021
57	EEC-BE21-57	Hansard	Louise Pratt	2/06/2021	46	Comcare	Airservices Australia Mandatory driver training for firefighters	<p>Senator PRATT: It sounds like you've had an update of them in the past in relation to mandatory driver training. Are there any other issues you've pursued with Airservices Australia that you can give us a brief overview of—things like—</p> <p>Mr Napier: I don't have that detail at hand.</p> <p>Senator PRATT: That's fine, you can take it on notice.</p>	16/07/2021
58	EEC-BE21-58	Hansard	Louise Pratt	2/06/2021	46	Australian Building and Construction Commission	ABCC - Grocon	<p>Senator PRATT: Thank you very much, Chair. Your opening statement is relevant to our first questions. I note the failure to make payments that resulted in sanctions, and I want to raise with you what looks like a similar case. There has been widespread discussion in the construction industry about the fact that many subcontractors working for the Pindan Group and Grocon were not being paid on time, or at all, and that millions of dollars are owed to building subcontractors and contractors. What steps has the ABCC taken to assist contractors who were owed money prior to the Pindan Group and Grocon going into administration?</p> <p>...</p> <p>Ms Drennan: Our usual approach when we receive reports or complaints regarding subcontractors who haven't been paid is to assess the jurisdiction and, if we have jurisdiction we'll contact the subcontractor and initiate an audit. As of 1 July 2019, over \$7½ million in payments have been made to subcontractors following security-of-payment cases to the ABCC. Secondly, where a report or complaint has been made that a subcontractor has not been paid and the ABCC has then made contact with the person who owed the money, either they pay the money immediately or the ABCC conducts an audit and they pay during the audit or as part of rectification. In relation to Grocon and Pindan: I can take the question about Grocon on notice. Unfortunately, I don't have information with me about any compliance activity conducted in relation to Grocon.</p>	16/07/2021
59	EEC-BE21-59	Hansard	Louise Pratt	2/06/2021	47	Australian Building and Construction Commission	ABCC - Pindan	<p>Senator PRATT: In that context, what was the value of those seven payments? As I understand it, there are some 14,000 creditors with Pindan. I think you said that you had information for Pindan and that you didn't for Grocon?</p> <p>Ms Drennan: I can take that one on notice. I would be able to obtain information about compliance activities in relation to Grocon, but I just don't have that—</p> <p>Senator PRATT: No, I just wanted to clarify that. Why were there only seven compliance activities when, as I understand it, there are some 1,400 creditors?</p> <p>Ms Drennan: I might just explain. There were three compliance activities, and we conduct our compliance activities in a number of different ways. Firstly, we respond to reports of delayed payments and then we also investigate complaints from subcontractors. We investigate every complaint to see if we have jurisdiction and we take action where we do. Sorry, I've forgotten the second half of your question.</p> <p>Senator PRATT: I'm trying to unpack how many payments you really looked at within those two delayed and five missed payments—I think that's what you said.</p> <p>Ms Drennan: One of the audits identified delayed payment in relation to two subcontractors. I don't have the details of the amount of the delay, but I could take that on notice if you would like me to.</p> <p>Senator PRATT: Okay.</p>	16/07/2021

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60	EEC-BE21-60	Hansard	Louise Pratt	2/06/2021	47	Australian Building and Construction Commission	ABCC - Grocon at collapse	<p>Senator PRATT: In terms of the steps ABCC took to assist contractors who were owed money prior to the Pindan collapse, was it seven interventions? And you can't tell us whether you had an active case with Grocon at all at the time? Have you looked at the Grocon situation since its collapse?</p> <p>Ms Drennan: I am aware that we've conducted compliance activities in relation to Grocon. I just don't have any further details that I can run through at moment. But I would be happy to take that on notice.</p>	16/07/2021
61	EEC-BE21-61	Hansard	Louise Pratt	2/06/2021	48	Australian Building and Construction Commission	Reverse factoring arrangement	<p>Senator PRATT: You said you can't be compelled to enter into a reverse factoring arrangement. What do you do to ensure that companies will get paid in a timely way if they don't enter into it? Have you audited CIMIC, CPB, Sedgman, UGL et cetera to ensure, for example, that they didn't compel their contractors to enter into reverse factoring and that it was done with consent?</p> <p>Ms Drennan: We did examine an activity related to UGL, and in that matter we didn't find any noncompliance with the code. In relation to the other contractors mentioned, I would need to take that on notice so that I could look at our records.</p> <p>Senator PRATT: Did UGL offer favourable terms for entering into reverse factoring, or did they say, 'We will pay you at 60 days or 100 days if you don't do reverse factoring, but if you do we'll pay you in a more timely manner?' Is that not in some way compelling a company?</p> <p>Ms Drennan: Unfortunately, I don't have the full details of the audit before me. I'd be happy to take it on notice. Just a moment. I'll see if I can find that out.</p>	16/07/2021
62	EEC-BE21-62	Hansard	Louise Pratt	2/06/2021	49	Australian Building and Construction Commission	Payment schemes	<p>Senator PRATT: Okay, so offering to get paid earlier by using reverse factoring is not compulsion. How long do these contract terms for being paid on time run out to? What is 'being paid on time'? Is it 10 days, two months, three months, 20 days? How long can it stretch out and still count?</p> <p>Ms Drennan: Each state and territory has its own security of payment scheme, and they have different time frames. If you give me a moment, I can have a look and run you through what some of them are.</p> <p>Senator PRATT: Could you take that on notice?</p> <p>Ms Drennan: Okay; that's fine.</p>	16/07/2021
63	EEC-BE21-63	Hansard	Anthony Sheldon	2/06/2021	53	Australian Building and Construction Commission	Site visits conducted nationally by ABCC	<p>Senator SHELDON: Can you provide a list of site visits conducted nationally by the ABCC by reference to the head contractor builder in the period since 31 January 2020? Can the list be broken down into site inspections for the purpose of investigation, the investigation of issues related to 13(2)(j) and inspections for other purposes? Can you take that on notice?</p> <p>Ms Drennan: Yes.</p> <p>Senator SHELDON: Thank you.</p>	16/07/2021
64	EEC-BE21-64	Hansard	Anthony Sheldon	2/06/2021	53	Australian Building and Construction Commission	ABCC Audits and inspections	<p>Senator SHELDON: Can the ABCC provide details as to how many inspections and audits they have undertaken and how many associated hours they have spent in the last 12 months in this category? Are they proactively looking for wage underpayments and sham contracting? Are they looking for breaches of section 13(2)(j), which is, of course, looking for logos, mottos or other material on sites? You can take that on notice.</p> <p>Mr McBurney: If I could take that on notice.</p> <p>...</p> <p>Mr McBurney: I'll just flag for you that our code inspection program and our site visit program are not broken up in the way that the question has been addressed. We do not go onto sites specifically to look at one issue when we conduct our site inspections. They are broad ranging, and we can look at any and all of those issues, but we will take the question on notice and see what we can provide you.</p>	16/07/2021
65	EEC-BE21-65	Hansard	Anthony Sheldon	2/06/2021	55	Australian Building and Construction Commission	Documentation of activities undertaken 21-24 July	<p>Senator SHELDON: Can you produce a diary or documents showing what you did during that time—those five days? The primary function, as you've said to the health authorities there, or the appropriate authorities in Queensland, was to carry out examinations between 21 and 24 July. Are you able to give us a list of diary entries and/or documents showing what you were doing during that time?</p> <p>Mr McBurney: I don't have or maintain a diary. I will take the question on notice and see what I can provide to you. Just to be clear, I arrived on 16 July, which was a Thursday; I got my test result on 17 July, which was a Friday; and I worked in the Brisbane office of the ABCC in the following week, from 20 to 24 July. And 24 July was a Friday, and I flew home after the final examination.</p>	16/07/2021

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66	EEC-BE21-66	Hansard	Deborah O'Neill	2/06/2021	63	Attorney-General's Department	Minister in charge of appointing Mr Gerard Boyce	<p>Senator O'NEILL: By then minister—who was the minister at the time?</p> <p>Mr Furlong: I'm not too sure. I don't have that information, and it's largely immaterial to me.</p> <p>Senator O'NEILL: Perhaps Mr Hehir might enlighten us.</p> <p>Mr Hehir: My recollection is that it was then Minister O'Dwyer, but I'd need to check that.</p> <p>Senator O'NEILL:</p> <p>Could you confirm that. The appointment of Mr Boyce was of some questionable judgement and has now been revealed, by those incidents, to have been a very poor choice, I think.</p>	16/07/2021
67	EEC-BE21-67	Hansard	Anthony Sheldon	2/06/2021	65	Attorney-General's Department	Article from The Australian - Mr Boyce	<p>Senator SHELDON: Minister, in light of what the former High Court Chief Justice Harry Gibbs found, Mr Boyce had a fundamental principle, as a judge, not to hear evidence or receive representations from one side behind the back of the other. But that's exactly what has happened in this case. The words are to the effect that the fundamental principle is that the judge is not to hear and have separate representations on the side, and he refused to recuse himself. Does that raise concerns for you?</p> <p>Senator Cash: I don't have that decision in front of me, so what I'll do is take that on notice. I am listening to the line of questioning, and I will revert to you.</p> <p>Senator SHELDON: I'm happy to make the media coverage available and table the article from the Australian.</p>	16/07/2021
68	EEC-BE21-68	Hansard	Benjamin Small	2/06/2021	66	Fair Work Commission	FWC Function in Sydney Commission Office - responsible officer/manager	<p>Senator SMALL: So you wouldn't care to answer, from an administrative perspective, on whether or not there was a responsible officer or manager for that function? That's a pretty simple question.</p> <p>Mr Furlong: It was an unofficial function that was held on the commission premises. I was not in this role at that time. I assumed this role probably about 10 or 11 weeks ago. I'm happy to take that question on notice, but there are two things. One is that I'm not aware of that. The second part is that I imagine that it is part of Comcare's current investigation into the nature of the events surrounding that function.</p> <p>Senator SMALL: Thank you, and I appreciate that you are new in the role. When you respond to that on notice, could you focus on not only what happened in this case but what ought to have happened under the Fair Work Commission's processes for managing functions on commission premises. That would be good. Who bought alcohol onto Fair Work Commission premises, on whose authority was that done, and is that permissible under Fair Work's policy?</p> <p>Mr Furlong: I'll take that on notice.</p>	16/07/2021
69	EEC-BE21-69	Hansard	Benjamin Small	2/06/2021	67	Fair Work Commission	FWC - Review of four modern awards	<p>Senator SMALL: Very briefly, would you be able to touch on where those four award reviews are at?</p> <p>Ms Luby: Certainly. For the restaurant award, there's been just a recent submission made which has amended the request by the restaurant and catering, narrowing down the focus of that. That's happened just recently. It might be easier if I take that on notice, because there is going to be a number of different steps, and we can provide that to you, Senator, if that's acceptable.</p> <p>Senator SMALL: Perfect; that would be fantastic.</p> <p>Ms Luby: Terrific. We can do that.</p>	16/07/2021
70	EEC-BE21-70	Hansard	Benjamin Small	2/06/2021	68	Fair Work Commission	Data - average time taken to approve an EBA from lodgement	<p>Senator SMALL: Perfect. On this occasion, we'd like to have on notice, please, data on the average length of time taken to approve an EBA from lodgement with the commission for the circumstances where (a) a union has sought to raise with the commission issues relating to the approval of that agreement, and (b) where there has been no such intervention. In the same vein, we'd like data on the average time taken to allocate an application for EBA approval to members when they are union backed applications versus those that are not. I think that would be very useful, using that information.</p> <p>Ms Luby: I can certainly take that on notice, and, if you're interested, we have some quite up-to-date data on that, in general, the time taken from lodgement to allocation to a member for agreement. Ninety-five per cent of applications are allocated to a member within five working days, with 100 per cent allocated within two weeks, regardless of whether there's any union involvement.</p> <p>Senator SMALL: Brilliant. Thank you very much.</p>	16/07/2021

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71	EEC-BE21-71	Hansard	Deborah O'Neill	2/06/2021	72	Fair Work Commission	Gerard Boyce - training after inquiry	<p>Senator O'NEILL: But the letter that was sent to Deputy President Gerard Boyce was in fact from the President of the Fair Work Commission; is that correct?</p> <p>Mr Furlong: That's my understanding, yes. I understand that from the question on notice. I haven't seen the correspondence.</p> <p>Senator O'NEILL: Can the correspondence be tabled for the committee?</p> <p>Mr Furlong: I can take that on notice.</p> <p>Senator O'NEILL: Thank you very much. I also thank you for drawing our attention to EECAE 21-111. Given the nature of behaviours that Mr Boyce has displayed—the lewd figurines that we were discussing, to say nothing of the firecracker incident—the two active inquiries that we referred to were those two matters. I bring you back to the scantily-clad anime figurines that were on display in the deputy president's office, about which this letter on 6 March which was sent to him deals with. You would think that there would be a requirement following that for Mr Boyce to undertake some training, and that was the nature of the question that was put on the record by Senator Farrell: the full list of training Mr Boyce was required to undertake, to share in detail which training has or hasn't been undertaken. In the response, the first sentence says 'The Comcare inspector report did not require Deputy President Boyce to undertake training.' Mr Furlong, did Mr Boyce receive training or not receive training after he had these scantily-clad figures on display in his room and triggered a Comcare inquiry and findings? Did he get training afterwards or not?</p> <p>Mr Furlong: I can take that question on notice.</p> <p>Senator O'NEILL: You don't know if he did?</p> <p>Mr Furlong: No.</p> <p>CHAIR: The witness has said he's going to take it on notice.</p> <p>Senator SMALL: Is that the same question that was circulated? I don't understand.</p> <p>Senator O'NEILL: It said 'did not require training'. My question is: did he receive any training?</p> <p>CHAIR: He has said that he will take the question on notice.</p>	16/07/2021
72	EEC-BE21-72	Hansard	Deborah O'Neill	2/06/2021	73	Fair Work Commission	Scale of confidential consultations in Sydney or in other offices	<p>Senator O'NEILL: I'm not seeking to find any detail about those calls, and I completely accept people's need for confidentiality, especially in the context we're talking about, but, if there are 45 people working in the Sydney office and 40 people sought one of the many confidential consultations, that's an indication of a pretty big problem in that workplace. Can you take on notice the scale of what the many confidential consultations were and if they occurred in the Sydney office or in other offices so that I can get a scale of what happened and where? If you could please provide that on notice, that would be most helpful.</p>	16/07/2021
73	EEC-BE21-73	Hansard	Deborah O'Neill	2/06/2021	74	Fair Work Commission	Number of overturned cases for each member of the commission	<p>Senator O'NEILL: Can you provide—on notice, if you can't do it now—a chart that indicates the members of the commission and the number of cases of their judgements being overturned, where they've been criticised in terms are so scathing—</p> <p>Senator Cash: Are you asking the Fair Work Commission to do this?</p> <p>Senator O'NEILL: Yes. Can they do it?</p> <p>Senator Cash: Yes—sorry; I thought you were directing it to Mr Hehir.</p> <p>Senator O'NEILL:</p> <p>Well, Mr Hehir sounds like he might have access to some pretty good information. Mr Furlong, can you do that? Or is it Mr Hehir?</p> <p>Mr Hehir: The Fair Work Commission's database would be—</p> <p>Senator Cash: Yes, it would be best if the Fair Work Commission provided the information for you.</p> <p>Senator O'NEILL: Can you do that, Mr Furlong?</p> <p>Mr Furlong: I'll take the question on notice.</p>	16/07/2021
74	EEC-BE21-74	Hansard	Louise Pratt	2/06/2021	82	Fair Work Commission	Commissioners residencies and offices	<p>Senator PRATT: For the record, over the last few years how many commissioners have resided and had their offices in each state? It's my understanding that there was not a vacancy in Victoria and that it was an additional appointment above the number of commissioners that had previously been based in Victoria.</p> <p>Mr Furlong: Can we take that on notice?</p>	16/07/2021

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75	EEC-BE21-75	Hansard	Louise Pratt	2/06/2021	83	Fair Work Commission	Average time commission takes to consider and approve an enterprise agreement	<p>Senator PRATT: This is the last one on this topic, but I've got a couple more questions for the commission. What's the current average time taken for the commission to consider and approve an enterprise agreement, and how does this compare to an equivalent prior period?</p> <p>Ms Luby: Agreements that were approved between 1 July and 30 April this year—so most of this financial year—were approved within a median of 22 calendar days, which is a significant improvement on recent years. It's been gradually coming down over the last three years. I can take the specific numbers of days on notice if you want.</p> <p>Senator PRATT: Thank you. I'd be grateful for that.</p>	16/07/2021
76	EEC-BE21-76	Hansard	Louise Pratt	2/06/2021	83	Fair Work Commission	Statistics - unfair dismissal applications	<p>Senator PRATT: Okay. I'll do that very shortly. The proportion of unfair dismissal applications you approved seems to have decreased against this time last year. The commission has put on record that it has come back down to normal rates, but perhaps you might take that on notice for me, please, so that we can see the statistical spike and it coming back down again. Thank you, Chair.</p>	16/07/2021
77	EEC-BE21-77	Hansard	Louise Pratt	2/06/2021	84	Fair Work Ombudsman	Minimum wage	<p>Senator PRATT: Eight dollars an hour. Is that the lowest rate you've ever heard of where you've proven that that's what someone was being paid?</p> <p>Ms Parker: I'd need to ask one of my colleagues if they are able to answer that. I'm not sure, but I think that's pretty low.</p> <p>Mr O'Sullivan: Maybe I can assist. I'd have to take that on notice.</p> <p>Senator PRATT: I'm happy for you to take it on notice.</p>	16/07/2021
78	EEC-BE21-78	Hansard	Louise Pratt	2/06/2021	86	Fair Work Ombudsman	Independent contractors - Underpayments	<p>Senator PRATT: Thank you. I'm assuming that people come to you because they feel as though they've been underpaid, but, if their employer has deemed them an independent contractor, how do you make a decision about whether they should have been paid an hourly rate or a piece rate or whether they are in fact an independent contractor or not? Have there been circumstances in which employers have been trying to argue that someone is an independent contractor so they can pay them a rate that would be below other minimums?</p> <p>Mr O'Sullivan: Indeed. I'll deal with the last part of your question first, because that's exactly what we are alleging in the Doll House Training matter, but—</p> <p>Senator PRATT: What's the hourly rate or the piecework rate in that?</p> <p>Mr O'Sullivan: I don't think I've got that in front of me.</p> <p>Senator PRATT: Could you take that on notice?</p> <p>Mr O'Sullivan: Yes. We apply the classic tests for whether a contract is one of service or one for services. That's often been described as a multifactor test but with some threshold requirements. Obviously, one of the most obvious threshold requirements is that a contract of employment is still one of the few contracts that require personal service, so the employee must be a human being and can't be a corporation. Another threshold requirement is what has been called by some courts the 'irreducible minima' of mutual obligation. Once those two thresholds are met, along with a couple of others, the courts traditionally apply the multifactor tests and we take it from there.</p>	16/07/2021
79	EEC-BE21-79	Hansard	Malcolm Roberts	2/06/2021	90	Fair Work Ombudsman	CEIS program cost	<p>Senator ROBERTS: I must admit, we have not heard any complaints, so that's probably a pretty good indication that things are going reasonably well. How much has been invested in this program in terms of cost and additional resources?</p> <p>Ms Hannah: I'll take that on notice. What I'll say is the work that's been done to date has been done within existing resources. But I'll take that on notice to double-check that.</p> <p>Senator ROBERTS: Thank you.</p>	16/07/2021
80	EEC-BE21-80	Hansard	Deborah O'Neill	2/06/2021	97	Fair Work Ombudsman	Breaches of the Fair Work Act	<p>Senator O'NEILL: Mr Ronson, have any phoenixing behaviour or breaches of the Fair Work Act been identified amongst the cohort that we have been discussing - those nine persons of interest?</p> <p>Mr Ronson: Not at this stage.</p> <p>Senator O'NEILL: Can you provide any details of the individuals, their behaviour or the investigations— without compromising the investigation, of course?</p> <p>Mr Ronson: I would have to take that on notice and confer with—</p> <p>Senator O'NEILL: That would be helpful.</p>	16/07/2021

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81	EEC-BE21-81	Hansard	Deborah O'Neill	2/06/2021	99	Fair Work Ombudsman	Recovering funds from insolvent labour hire companies	Senator O'NEILL: Have there been companies that have fallen over and you were unable to recover any funds? Ms Parker: Mr O'Sullivan might be able to answer that. We do have that happen, yes. Mr O'Sullivan: I'm not sure we've had many labour hire companies where we haven't been able to recover because they've gone into insolvency. I might have to take that on notice. Senator O'NEILL: If you can. Ms Parker, I think you gave me a total number for all labour hire. Could you, on notice, split it into the different sectors. Clearly horticulture is one I'm particularly interested in.	16/07/2021
82	EEC-BE21-82	Hansard	Deborah O'Neill	2/06/2021	99	Fair Work Ombudsman	Cultural Diversity in the FWO Could you provide, on notice, the cultural diversity and skill base you have. I would be interested to know who is doing what kind of work. Ms Parker: As long as they disclose that; they don't always. But yes, we're happy to do that.	16/07/2021
83	EEC-BE21-83	Hansard	Louise Pratt	2/06/2021	102	Fair Work Ombudsman	NT services run from within Youth Law Australia	Senator PRATT: Where are the services for the Northern Territory run from within Youth Law Australia? Ms Hannah: I'll have to take that on notice; I'm not sure where their physical location is. I don't have that information to mind, at the moment.	16/07/2021
84	EEC-BE21-84	Hansard	Louise Pratt	2/06/2021	102	Fair Work Ombudsman	Youth Law Australia	Senator PRATT: Could you take on notice whether Youth Law Australia is also in Sydney? Ms Hannah: Yes, I can. Most of our contact with our stakeholders is done either by phone or through email or online channels regardless of where they're located, including Sydney. Senator PRATT: Please also take on notice whether you have any specific funding for targeted gender-specific specialist services, such as the Working Women's Centres. There's a reliance on small unfunded organisations to continue to respond to workers' issues and accept referrals from organisations such as your own. Are you now redirecting people away from the Working Women's Centre or what's your approach to— Ms Hannah: No, we're not directing people away from the Working Women's Centre.	16/07/2021
85	EEC-BE21-85	Hansard	Louise Pratt	2/06/2021	102	Fair Work Ombudsman	Franchises in breach of Fair Work Act	Senator PRATT: Okay. I can see from your press releases since October—Soul Origin, Han's Cafe, Cafe 63, Top Juice, Chemist Warehouse—there are a lot of them—can you please take on notice the names of the franchises that have been found to be in breach of the fair work acts. Can you also please take on notice how many franchises have been found to have breached the protecting vulnerable workers amendments to the act, which came into effect in 2017? Ms Parker: Yes, we will take that on notice.	16/07/2021
86	EEC-BE21-86	Hansard	Louise Pratt	2/06/2021	103	Fair Work Ombudsman	Franchisee litigations	Senator PRATT: You have given me a good set of examples of how many have gone to court and what the penalties are. Could you perhaps complete that list on notice? Mr O'Sullivan: Sure.	16/07/2021
87	EEC-BE21-87	Hansard	Louise Pratt	2/06/2021	104	Fair Work Ombudsman	Cases - franchisor	Senator PRATT: Okay. Now that they know they're liable, they're either actively preventing it or putting their heads in the sand? Hear no and see no evil? Mr O'Sullivan: Having raised the cost of noncompliance and attributed it potentially to a franchisor—unsurprisingly, many franchisors do this, like most other reasonable business people do, just because it's the right thing. But certainly these provisions have encouraged the taking of active and proactive steps. Obviously, it's bad for business if their brand name gets a reputation for franchisees not meeting their legal obligations, so many of them have included additional clauses and requirements and have even provided training and that kind of thing to franchisees so that they can avail themselves of a defence. Senator PRATT: Do you have cases on foot? Mr O'Sullivan: We do. I might have to take that on notice.	16/07/2021

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88	EEC-BE21-88	Written	Larissa Waters	2/06/2021		Comcare	Bullying and Harrassment claims	<p>In a QON response from last estimates (EEC-AE21-32.pdf), Comcare confirmed that it had accepted 67 claims relating to bullying and harassment (exc sexual harassment) and paid \$5.056M for those claims. From 1 July - 31 December 2020, 29 of 88 claims have been accepted and nearly \$1M paid in compensation.</p> <ul style="list-style-type: none"> • Given the significant costs to govt, what work does Comcare do to: <ul style="list-style-type: none"> o identify systemic issues with particular agencies / Senators / MPs? o provide training and support to those offices to reduce staff exposure to harassment? o Are MPs with more than one claim against them counselled / sanctioned in any way? • Does Comcare take any action in response to the results of the APS Commission's Employee Census, such as working with agencies where higher numbers of staff have said that they've experienced or observed discrimination in their workplace? • Has Comcare observed any increase in complaints in the wake of sustained attention on the work culture in APH since the Four Corners episode last year? Or since Brittany Higgins' allegations being made public in February 2021? • What involvement will Comcare have with the AHRC as Commissioner Jenkins conducts her review of the culture in parliamentary workplaces? 	16/07/2021
89	EEC-BE21-89	Written	Malcolm Roberts	2/06/2021		Coal Mining Industry (Long Service Leave Funding) Corporation	Employer prosecutions	<p>We have been advised that Coal LSL may be prosecuting an employer or employers because Coal LSL did not accept a response from an employer stating that they did not have any employees who qualified to be covered by the Coal LSL scheme. Is this correct and why is Coal LSL taking such heavy-handed action when other means of confirming the employers claims may be available?</p>	16/07/2021
90	EEC-BE21-90	Written	Malcolm Roberts	2/06/2021		Coal Mining Industry (Long Service Leave Funding) Corporation	Backlog of records	<p>Can you confirm that you have a backlog of your records that is going to take a significant time to clear, how long will this take and how long are the resources you are using to clear this backlog engaged for?</p> <p>Are the resources you have engaged to clear the records backlog casuals and are they being paid the same as your permanent employees, if there is a gap, what is it and who is the employer?</p>	16/07/2021
91	EEC-BE21-91	Written	Kim Carr	2/06/2021		Comcare	Case of Mr Lester Wissing	<ol style="list-style-type: none"> 1. Mr Lester Wissing has been in contact with a number of offices of federal MPs in both Government and Opposition in relation to Comcare's conduct and its reliance upon what he alleges were false medical reports that directly contradicted the evidence of his long-standing medical specialists. 2. Which doctor or doctors conducted Independent Medical Assessments of Mr Lester Wissing on behalf of Comcare? 3. Have any of the doctors that Comcare directed Mr Lester Wissing to attend been the subject of complaints by other Comcare clients? 4. In particular, was Mr Lester Wissing directed by Comcare to attend the doctor who was the subject of 66 complaints, referred to in evidence in Estimates hearings in March and again in May? 5. Given Mr Lester Wissing has alleged significant factual errors and unethical behaviour by Comcare in its assessment of his claim, and that the Commonwealth Ombudsman substantially agreed with aspects of that assessment in his report and letter to Comcare dated 11 September 1990 (see extract on following page), and that Mr Wissing says that he continues to suffer significant pain and requires ongoing medical treatment as a consequence of the injury he suffered while working as a Commonwealth employee at the CSIRO: <ol style="list-style-type: none"> a) Has Mr Wissing's case been given fresh consideration by Comcare at any time since 1990, and more significantly, since the discovery that Comcare had been relying on IMEs of questionable independence and quality to deny some claims? b) Has Mr Wissing been given the opportunity to seek review of his case by the Statutory Oversight Team? 6. In the event that Comcare is unable to locate records relating to a historical claim such as that of Mr Lester, and where there is evidence that a claim was denied in circumstances that are unethical or otherwise not in 	16/07/2021

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92	EEC-BE21-92	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Executive Management	1. In relation to executive management for the Department and its agencies, can the following be provided for 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021: a. The total number of executive management positions b. The aggregate total remuneration payable for all executive management positions. c. The change in the number of executive manager positions. d. The change in aggregate total remuneration payable for all executive management positions.	16/07/2021
93	EEC-BE21-93	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Departmental functions	1. In relation to expenditure on any functions or official receptions etc hosted by the Department or agencies within the portfolio for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021 can the following be provided: a. List of functions. b. List of all attendees. c. Function venue. d. Itemised list of costs (GST inclusive). e. Details of any food served. f. Details of any wines or champagnes served including brand and vintage. g. Any available photographs of the function. h. Details of any entertainment provided.	16/07/2021
94	EEC-BE21-94	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Facilities upgrades	1. Were there any upgrades to facility premises at any of the Departments or agencies for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021. This includes but is not limited to: staff room refurbishments, kitchen refurbishments, bathroom refurbishments, the purchase of any new fridges, coffee machines, or other kitchen equipment. 2. If so, can a detailed description of the relevant facilities upgrades be provided together with an itemised list of costs (GST inclusive). 3. If so, can any photographs of the upgraded facilities be provided.	16/07/2021
95	EEC-BE21-95	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Staff travel	1. What is the total cost of staff travel for departmental/agency employees for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021.	16/07/2021
96	EEC-BE21-96	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Briefings	1. Has the Department/agency or the Minister's office provided briefings to independents/minor parties in the Senate or House of Representatives. If so, can the following be provided: a. The subject matter of the briefing. b. The location and date of the briefing. c. Who proposed the briefing. d. Attendees of the briefing by level/position	16/07/2021
97	EEC-BE21-97	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Departmental staff allowances	1. Can a list of Departmental/agency allowances and reimbursements available to employees be provided.	16/07/2021
98	EEC-BE21-98	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Market Research	1. Does the Department/agency undertake any polling or market research in relation to government policies or proposed policies. 2. If so, can the Department provide an itemised list of: a. Subject matter b. Company c. Costs each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021. d. Contract date period 3. Can the Department/agency advise what, if any, research was shared with the Minister or their office and the date and format in which this occurred.	16/07/2021

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99	EEC-BE21-99	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Advertising and information campaigns	<p>1. What was the Department/agency's total expenditure on advertising and information campaigns for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>2. What advertising and information campaigns did the Department/agency run in each relevant period. For each campaign, please provide:</p> <p>a. When approval was first sought.</p> <p>b. The date of approval, including whether the advertising went through the Independent Campaign Committee process.</p> <p>c. the timeline for each campaign, including any variation to the original proposed timeline.</p> <p>3. Can an itemised list of all Austender Contract Notice numbers for all advertising and information campaign contracts in each period be provided.</p>	16/07/2021
100	EEC-BE21-100	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Promotional merchandise	<p>1. What was the Department/agency's total expenditure on promotional merchandise for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>2. Can an itemised list of all Austender Contract Notice numbers for all promotional merchandise contracts in that period please be provided.</p> <p>3. Can photographs or samples of relevant promotional merchandise please be provided.</p>	16/07/2021
101	EEC-BE21-101	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Social media influencers	<p>1. What was the Department/agency's total expenditure on social media influencers for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>2. What advertising or information campaigns did the Department/agency use social media influencers to promote.</p> <p>3. Can a copy of all relevant social media influencer posts please be provided.</p> <p>4. Can an itemised list of all Austender Contract Notice numbers for all relevant social media influencer contracts please be provided.</p>	16/07/2021
102	EEC-BE21-102	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Media Monitoring	<p>1. What is the total cost of media monitoring services, including press clippings, electronic media transcripts etcetera, provided to each Minister's office for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>a. Which agency or agencies provided these services.</p> <p>b. Can an itemised list of Austender Contract notice numbers for any media monitoring contracts in each period please be provided</p> <p>c. What is the estimated budget to provide these services for the year FY 2020-21.</p> <p>2. What was the total cost of media monitoring services, including press clippings, electronic media transcripts etcetera, provided to the department/agency for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>a. Which agency or agencies provided these services.</p> <p>b. Can an itemised list of Austender Contract Notice numbers for any media monitoring contracts in each period please be provided</p> <p>c. What is the estimated budget to provide these services for the year FY 2020-21.</p>	16/07/2021

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103	EEC-BE21-103	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Communications staff	<p>1. For all departments and agencies, please provide – in relation to all public relations, communications and media staff – the following:</p> <p>2. By Department or agency:</p> <p>a. How many ongoing staff, the classification, the type of work they undertake and their location.</p> <p>b. How many non-ongoing staff, their classification, type of work they undertake and their location.</p> <p>c. How many contractors, their classification, type of work they undertake and their location.</p> <p>d. How many are graphic designers.</p> <p>e. How many are media managers.</p> <p>f. How many organise events.</p> <p>3. Do any departments/agencies have independent media studios.</p> <p>a. If yes, why.</p> <p>b. When was it established.</p> <p>c. What is the set up cost.</p> <p>d. What is the ongoing cost.</p> <p>e. How many staff work there and what are their classifications.</p>	16/07/2021
104	EEC-BE21-104	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Recruitment	<p>1. What amount has been expended by the department/agency on external recruitment or executive search services in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021?</p> <p>2. Which services were utilised. Can an itemised list be provided.</p>	16/07/2021
105	EEC-BE21-105	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Staffing	<p>1. How many full-time equivalent staff are engaged at each of 30 June 2019 and 30 June 2020, 31 May 2021?</p> <p>2. How many of these positions are (a) on-going and (b) non-ongoing.</p> <p>3. How many redundancies have occurred in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021. How many were:</p> <p>a. voluntary</p> <p>b. involuntary.</p> <p>4. How many of those redundancies occurred as a result of departmental restructuring. What is the total cost of those redundancies.</p> <p>5. What was the total value in dollar terms of all termination payments paid to exiting staff.</p> <p>6. How much overtime or equivalent has been paid to staff in each of the 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p> <p>7. How many section 37 notices under the Public Service Act 1999 have been offered in each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021.</p>	16/07/2021
106	EEC-BE21-106	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Fair Work Ombudsman	<p>1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021, how many references have been made to the Fair Work Ombudsman within the Department or agency.</p>	16/07/2021
107	EEC-BE21-107	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Office of the Merit Protection Commissioner	<p>1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021, how many references have been made to the Office of the Merit Protection Commissioner within the Department or agency.</p>	16/07/2021
108	EEC-BE21-108	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Public Interest Disclosures	<p>1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021, how many public interest disclosures have been received.</p>	16/07/2021

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109	EEC-BE21-109	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Travel and expense claim policy	1 Please produce a copy of all travel and expense claim policies. 2 Please produce a copy of all claim forms. If the forms are digital, please provide a screen shot of each section, including all dropdown options.	16/07/2021
110	EEC-BE21-110	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Declarations of interest	1 Please produce a copy of all relevant policies . 2 Please produce a copy of the register of declarations of interest as at 31 May 2021?	16/07/2021
111	EEC-BE21-111	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Declarations of gifts and hospitality	1 Please produce a copy of all relevant policies. 2 Please produce a copy of the register of declarations of gifts as at 31 May 2021?	16/07/2021
112	EEC-BE21-112	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Fair work Commission	1. For each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020, and 1 January 2021-31 May 2021, how many references have been made to the Fair Work Commission within the Department or agency.	16/07/2021
113	EEC-BE21-113	Written	Kristina Keneally	1/06/2021		Attorney-General's Department	Collateral materials	1. What was the Department/agency's total expenditure on collateral materials, including banners, publications, maps, charts and high visibility or protective clothing for events, functions, conferences, meetings, press conferences and site visits, including Ministerial events, functions, conferences, meetings, press conferences and site visits for each of the periods 1 July 2019-31 December 2019; 1 January 2020-30 June 2020; 1 July 2020-31 December 2020 and 1 January 2021-31 May 2021. 2. For each event or function where the Department/agency expended funds on collateral materials, provide details of the event, including the date and location of each event, and details of the types of materials.	16/07/2021
114	EEC-BE21-114	Written	Malcolm Roberts	2/06/2021		Safe Work Australia	Health and Wellbeing	Workforce safety and management, particularly in regard to managing the safety and anxiety of health workers has been poor, and that anxiety and related fatigue continues. Please detail all of the fatigue data and learnings and what will be done better from now on to manage health worker safety and risks and to protect their mental health at both a federal and state level?	16/07/2021
115	EEC-BE21-115	Written	Louise Pratt	2/06/2021		Coal Mining Industry (Long Service Leave Funding) Corporation	Casuals in the black coal mining industry	1. What is the gap between the wages of casual workers and full-time workers in the black coal mining industry? 2. Do you have any research that would back up assertions that casuals get an average of \$45 per hour and permanent workers get an average of \$75 per hour. 3. Doesn't this show that many casual workers aren't in fact getting the loading they're supposed to be paid in lieu of entitlements like paid leave? 4. Did the Coal LSL table any documents relevant to this issue as part of the Porter working group process? 5. Can the Coal LSL please provide any such documents to the committee.	16/07/2021

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116	EEC-BE21-116	Written	Don Farrell	1/06/2021		Attorney-General's Department	Casual conversion provisions	<p>1. How many casuals have successfully been converted to a permanent role, following a request by the casual, since the casual conversion provisions were introduced to the Fair Work Act on the 26th of March 2021?</p> <p>2. How many casuals have successfully been converted to a permanent role, following an offer by an employer, since the casual conversion provisions were introduced to the Fair Work Act on the 26th of March 2021?</p> <p>3. How many casuals have requested a conversion to permanent work, but have been rejected by their employer, since the casual conversion provisions were introduced to the Fair Work Act on the 26th of March 2021?</p> <p>4. How many casuals have filed an application at the Fair Work Commission with respect to a rejected request for conversion since the casual conversion provisions were introduced to the Fair Work Act on the 26th of March 2021?</p> <p>a. On what grounds were these requests initially rejected by the casuals' employers?</p> <p>b. What were the outcomes of these disputes?</p> <p>c. Please provide case citations for these disputes, if available.</p> <p>5. How many casuals have filed an application at the Federal Circuit Court or any other Court or Tribunal with the relevant jurisdiction, with respect to a rejected request for conversion since the casual conversion provisions were introduced to the Fair Work Act on the 26th of March 2021?</p> <p>a. On what grounds were these requests initially rejected by the casuals' employers?</p> <p>b. What were the outcomes of these disputes?</p> <p>c. Please provide case citations for these disputes, if available.</p> <p>6. Is there any target or expectation from either the Department or the Government with respect to the number of offers, requests, successful conversions and/or disputes that will occur within the first year of the provisions, or within any other timeframe, and if yes, please provide these.</p> <p>7. If the Department and Government are unaware of the number of requests, conversions and disputes that are occurring, how are the Department and Government actually ensuring that the conversion provisions are providing a genuine option for conversion?</p>	30/07/2021
117	EEC-BE21-117	Written	Don Farrell	1/06/2021		Attorney-General's Department	Disputes filed by gig workers under the Independent Contractors Act at the Federal Court for harsh or unfair contract terms	<p>At Budget Estimates, Mr Hehir said with respect to gig workers:</p> <p>"Those people who are legitimately employed under the Independent Contractors Act do have access to protections. Those protections include the ability to have the terms of their contract amended where that contract is harsh or unfair. Ultimately, that would require action being taken by the individual or supported by a union, where appropriate. I take on face value the evidence of \$6.67. If they feel that's harsh or unfair—it certainly is a substantial amount below the minimum wage—with the casual loading on it, the action under the Independent Contractors Act is to seek to have the court set aside those provisions."</p> <p>Please advise:</p> <p>a. How many gig workers have filed a dispute under the Independent Contractors Act at the Federal Court for harsh or unfair contract terms.</p> <p>b. For each of those cases, please provide the case citation and the outcome of the dispute.</p> <p>c. What is the approximate legal expense that would be incurred by a gig worker who wishes to take such an action?</p>	30/07/2021

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118	EEC-BE21-118	Written	Don Farrell	1/06/2021		Attorney-General's Department	Fair Work Commission finding in favour of Mr Diego Franco against Deliveroo	At Budget Estimates, Mr Hehir said with respect to the recent finding at the Fair Work Commission in favour of Mr Diego Franco against Deliveroo: "In the other circumstances we've had, I think, four decisions within the Fair Work Commission which said similar riders are independent contractors, and we've had two decisions, I think from the same commissioner, saying they're employees. Please advise in which cases concerning food delivery gig workers specifically, the Fair Work Commission has found the worker to be an independent contractor rather than an employee. a. For any such cases which were appealed to the Federal Court, could you please advise the ultimate outcome of that appeal, including whether the case was settled?	30/07/2021
119	EEC-BE21-119	Written	Don Farrell	1/06/2021		Attorney-General's Department	Persons conducting a business or undertaking (PCBU)	In the Department's view, in arrangements where independent contractors are being engaged by NDIS participants through gig platforms such as Mable, which styles itself as a marketplace with no control over the provision of services beyond connecting parties, and where the work is not ad-hoc in nature: a. Could the gig platform, such as Mable, be a PCBU? b. Could the NDIS participant be a PCBU? c. Could the 'independent contractor' be a PCBU? d. Has the Department ever considered, or investigated this matter, and if yes, please provide the details and findings of those considerations or investigations.	30/07/2021
120	EEC-BE21-120	Written	Don Farrell	2/06/2021		Safe Work Australia	Investigation of persons conducting a business or undertaking (PCBU)	1. Has Safe Work Australia ever considered or investigated which parties may be considered PCBUs in work arrangements involving gig platforms such as Mable, independent contractors, and NDIS participants? Noting that Mable styles itself as a marketplace which has no control over the provision of services, and that the work is not ad-hoc in nature. a. If yes, what were the nature of those considerations or investigations, and please provide the details and findings. 2. Is it possible that NDIS participants could be deemed PCBUs, and hold the attached legal accountabilities and liabilities, when engaging independent contractors through gig platforms in the NDIS?	30/07/2021
121	EEC-BE21-121	Written	Don Farrell	2/06/2021		Comcare	Comcare Expenditure	1. For each of the last five financial years, please provide the amount Comcare has spent on: a. Surveillance of any description b. External legal costs c. Claimants' legal costs awarded against you d. Independent Medical Examinations e. Rehabilitation costs f. Medical treatment costs	30/07/2021
122	EEC-BE21-122	Written	Don Farrell	2/06/2021		Comcare	Number of claimants where legal costs exceed medical costs	Please advise the number of claimants in the last five financial years where the amount spent by Comcare on legal costs (both Comcare's and claimants' costs awarded against Comcare) and surveillance cumulatively, has exceeded the amount spent on medical treatment and rehabilitation costs.	30/07/2021
123	EEC-BE21-123	Written	Don Farrell	2/06/2021		Comcare	Cost reduction	1. Is cost reduction an objective or goal of Comcare, or does Comcare have any targets relating to reducing costs, and if yes, what are they? 2. Is reducing Comcare's expenditure on medical treatment, rehabilitation or compensation payments an objective or goal of Comcare, or does Comcare have any targets relating to reducing these expenses, and if yes, what are they? 3. Has Comcare ever produced or commissioned a report, strategy, plan or paper on how to reduce expenditure related to medical treatment, rehabilitation or compensation payments, and if yes, please provide a copy.	30/07/2021

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124	EEC-BE21-124	Written	Don Farrell	2/06/2021		Comcare	Reasons for which claims are reconsidered, reassessed or reviewed	<p>1. Once a claim has been approved, what are the reasons for which Comcare may seek to have the claim reconsidered, reassessed or reviewed?</p> <p>2. How does Comcare identify previously approved cases for reconsideration, reassessment or review, and is the cost or forecasted cost of treatment or compensation payments (or any other cost liabilities) a factor in that decision-making process?</p> <p>3. Does Comcare ever, or has Comcare ever, engaged in identifying open cases for further assessment, review or consideration based on cost liability?</p>	30/07/2021
125	EEC-BE21-125	Written	Don Farrell	2/06/2021		Comcare	Determination of 'no present liability' in rehabilitation assessments	<p>When commissioning a rehabilitation assessment under s36 of the SRC Act, is one of the outcomes available to Comcare a determination of 'no present liability'?</p> <p>a. If yes, on how many occasions has a rehabilitation assessment resulted in a finding of no present liability in the last five financial years?</p>	30/07/2021
126	EEC-BE21-126	Written	Don Farrell	2/06/2021		Comcare	Access to surveillance footage	<p>1. Please advise any limitations on claimants' ability to access surveillance material in their claim file under s59 of the SRC Act, and in what circumstances, if any, Comcare has refused access to information in claim files in the last five years.</p> <p>2. Please advise any limitations on claimants' ability to access surveillance material commissioned by Comcare in their 'AAT file', including before, during and after their AAT hearing.</p> <p>3. Has Comcare ever applied for, or requested that, the AAT issue a direction that surveillance footage relating to a Comcare claimant not be provided to the claimant, or that the claimant not be informed of the existence of the surveillance?</p> <p>a. If yes, please advise of the specific instances.</p>	30/07/2021