



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION  
COMMITTEE

**Estimates**

Public

MONDAY, 14 FEBRUARY 2022

CANBERRA

BY AUTHORITY OF THE SENATE

**FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE**

**Monday, 14 February 2022**

**Members in attendance:** Senators Ayres, Chandler, Gallagher, Kitching, Lines, McAllister, McMahon [by video link], O'Sullivan, Paterson, Patrick, Roberts, Marielle Smith, Waters and Watt

**PARLIAMENTARY DEPARTMENTS****In Attendance**

Senator Brockman, President of the Senate

**Department of Parliamentary Services**

Mr Robert Stefanic, Secretary

Ms Cate Saunders, Deputy Secretary

Ms Leanne Tunngley, Assistant Secretary, Security Branch

**Parliamentary Library**

Dr Dianne Heriot, Parliamentary Librarian

**Information Services Division**

Mr Con Sfyris, Acting Chief Information Officer

Mr Toby Amodio, Assistant Secretary, Cyber Security Branch

**Corporate Services Division**

Ms Liz Luchetti, First Assistant Secretary

**Finance and Property Services Division**

Mr Matt O'Brien, First Assistant Secretary

**Committee met at 09:00**

**CHAIR (Senator Chandler):** Today the committee will begin its examination of the additional estimates for 2021-22 for the parliamentary departments, the Prime Minister and Cabinet portfolio, the Finance portfolio and cross-portfolio Indigenous matters. The committee may also examine the annual reports of the departments and agencies appearing before it. Senators, departments and agencies have been provided with advice on the arrangements in place to ensure that additional estimates 2021-22 hearings are conducted in a COVID-safe environment. This guidance is also available from the secretariat. The committee appreciates the cooperation of all attendees in adhering to these arrangements.

The committee has before it a program listing agencies and outcomes relating to matters for which senators have given notice. The committee's proceedings today will begin with the parliamentary departments, followed by the Department of the Prime Minister and Cabinet and its agencies as listed on today's program. Tomorrow the committee will examine the Department of Finance and its agencies. Finally the committee will examine the National Indigenous Australians Agency, other Indigenous agencies and the Department of Health on Friday at the cross-portfolio Indigenous matters hearing.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. The committee would appreciate it if senators could please provide any written questions on notice to the secretariat by Friday 4 March 2022; however, it reminds all senators, as well as departments and agencies, that written questions on notice can be provided at any time. The committee has fixed Friday 25 March 2022 as the date for the return of answers to questions taken on notice.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised, which will be incorporated in the *Hansard*.

*The extract read as follows—*

**Public interest immunity claims**

That the Senate—

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

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

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

(1) If:

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

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

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

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

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

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

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

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

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

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

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

**CHAIR:** Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document.

The Senate has also resolved that an officer of a department of the Commonwealth shall not be asked to give opinions on matter of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers are requested to keep opening statements brief or seek to incorporate longer statements into the *Hansard*.

Finally, the committee has agreed to allow the media into the hearing room. In doing so, the committee reminds the media that they must follow the directions of the committee and the secretariat and remain within those areas clearly marked for the media. In addition, recording must not occur from behind the committee or between the committee and the witnesses, and computer screens and documents belonging to senators must not be filmed, photographed or recorded. Witnesses are reminded that they can object to being recorded at any time. The committee thanks the media in advance for maintaining a COVID-safe approach while in the hearing room.

**Department of Parliamentary Services**

[09:05]

**CHAIR:** I welcome the President of the Senate, Senator the Hon. Slade Brockman; Mr Rob Stefanic, Secretary of the Department of Parliamentary Services; Dr Dianne Heriot, Parliamentary Librarian; and officers of the department. I thank DPS for providing information pursuant to the committee's recommendations in the 2015 DPS inquiry, which has been circulated. Mr President, do you wish to make an opening statement?

**The President:** I will make a very brief opening statement, Chair.

**CHAIR:** Thank you.

**The President:** First, I'll thank you, Chair, the deputy chair and all committee members for being here today. I would like to briefly address the significant protest activity that has occurred since the last estimates hearing in October 2021. I will commence by thanking the department's parliamentary security staff and the Australian Federal Police, including ACT Policing, for their coordinated and diligent work to facilitate peaceful assembly whilst keeping this building secure.

One of the virtues of Western democracies is that our citizens can exercise their right to communicate their opinions and ideas through peaceful assembly. This includes gatherings within the parliamentary precinct. The Authorised Assembly Area, known as the AAA, is a designated place where large groups can meet safely and collectively articulate their concerns. Groups are permitted to use this space following consideration for the protection of public safety and fair and equal access.

We were all, however, shocked by the lawless acts that led to significant acts of vandalism and graffiti on our building and, most recently, a significant fire that damaged Old Parliament House. As a direct result, it has been necessary to maintain the security of the precincts by implementing tighter security controls, including changed traffic conditions, which I'm sure all senators have noticed this week, and staff in the building as well for that matter. I appreciate the inconvenience this causes to the operations of parliament and those who work in APH and thank all building occupants for their patience.

I'd also like to briefly touch on the Jenkins review. At the previous estimates hearing I reported the department had been proactive in assisting Sex Discrimination Commissioner, Ms Kate Jenkins, with her independent review of parliamentary workplaces. Since the report was received by executive government on 30 November 2021, the Department of the Prime Minister and Cabinet has rightfully been leading the work to respond to the report's recommendations and findings.

Last week saw presiding officers deliver a statement of acknowledgment on behalf of the parliamentary cross-party leadership task force. DPS has engaged with the Department of the Prime Minister and Cabinet by attending working groups, along with other parliamentary departments and the Department of Finance, to action recommendations regarding access and inclusion and also workplace health and safety. DPS has also undertaken preliminary work to identify options to implement the proposed parliamentary health and wellbeing service, noting the reliance on completion of a feasibility study and guidance from the leadership task force. Work implementing the recommendations of the Foster review continues with the involvement of relevant parliamentary committees.

I have a quick update on a couple of more technical matters in the building. In late 2021 the department commenced the rollout of the wi-fi upgrade project to resolve persistent issues with the general standard of wi-fi connectivity. The project will replace 654 wireless access points that have reached end of life and will improve coverage while increasing data throughput. Upgrades have been completed in the public areas of the building, incremental improvements to wi-fi have been realised since December 2021 and the project is currently scheduled for completion by May 2022.

I'm also pleased to report that the system's testing for the auxiliary power upgrade project was successfully completed over two consecutive weekends in January, finalising the installation of the new auxiliary power infrastructure. Senators may recall the project replaced and upgraded the original independent backup power system from 1988. The project is an important business continuity measure to provide an additional layer of redundancy if the grid backup power sources are unavailable. Testing involved a controlled shutdown of the main power supply and a restoration of the building's essential services. The successful testing process was one of the last remaining deliverables for the project. I'd like to thank all those involved who supported this project reaching this important milestone.

Finally, on cybersecurity: at the last estimates hearing I advised that the department was in the process of implementing Domain-based Message Authentication, Reporting & Conformance, also known as DMARC, into our parliamentary email system. You may recall DMARC is part of the Australian Cyber Security Centre strategy

to mitigate cybersecurity incidents, and aims to protect the aph.gov.au domain from being used for email spoofing, phishing and cybercrimes by blocking emails generated by third-party distribution services.

I'm pleased to report that since its implementation on 6 December 2021 DPS has observed an 82 per cent reduction in email traffic attempting to impersonate the aph.gov.au domain. Through standard reporting, DPS identified that DMARC blocked 31,255 emails, down from 181,000 in one week alone between 7 December and 14 December last year. The subset of impersonation emails classified as threats has reduced from over 240 per day to less than 40 per day.

I'd like to thank all parliamentarians and their staff for adapting to this essential change. It does highlight, however, the ongoing need to guard against cyberintrusion to protect the essential work of all parliamentarians. This is a race that will never end, and ongoing enhancements to cybersecurity arrangements remain a high priority. That's it from me, Chair.

**CHAIR:** Thank you, Mr President. Mr Stefanic, do you wish to make an opening statement?

**Mr Stefanic:** No, I don't.

**CHAIR:** Dr Heriot, do you wish to make an opening statement?

**Dr Heriot:** No, thank you.

**Senator GALLAGHER:** I'm wondering, Mr President, if you could make your opening statement available?

**The President:** There are a couple of little additions but, subject to those, I'm happy to make it available.

**Senator GALLAGHER:** Thank you. I just have a couple of questions following from that. The traffic restrictions that have been put in around Parliament House—how long are they going to remain in place? What is the intention there?

**The President:** I'll let Ms Saunders or Mr Stefanic deal with this more directly, but my view is that once we get advice from the AFP that they can be removed then we will revert to normal.

**Ms Saunders:** That's correct. We work really closely with the AFP and take their advice in relation to that.

**Senator GALLAGHER:** So it was based on their advice that there's really only one access point into the building?

**Ms Saunders:** That's correct, yes.

**Senator GALLAGHER:** On the Jenkins review, I think you mentioned that DPS is a member of a number of working groups. Can you explain or elaborate on that? What are the working groups that you're a member of?

**Mr Stefanic:** There are two particular working groups already underway. One is on accessibility and inclusion. The other is on workplace health and safety. There will also be a high-level implementation group that will be formed. One of my senior staff, the First Assistant Secretary for Corporate Services, will be a representative on that.

**Senator GALLAGHER:** Did I take it from the President's opening statement that they are chaired or led by PM&C?

**Mr Stefanic:** That's correct.

**Senator GALLAGHER:** And you're just a member of those groups, a member agency?

**Mr Stefanic:** That's right.

**Senator GALLAGHER:** And there are other member agencies?

**Mr Stefanic:** Yes. I believe the departments of the Senate and the House of Representatives, and the Parliamentary Budget Office will also have representatives on those.

**Senator GALLAGHER:** I'll ask some more questions of PM&C when we get there.

**Mr Stefanic:** And, might I add, Department of Finance is one of the other bodies I also missed.

**Senator GALLAGHER:** Great. And have those working groups all started and met?

**Mr Stefanic:** The accessibility and inclusion, and workplace and safety have met, yes.

**Senator GALLAGHER:** And the implementation one?

**Mr Stefanic:** I believe that's still being assembled at the moment, based on my conversation with Ms Hartland late last week.

**Senator GALLAGHER:** How often are they meeting?

**Mr Stefanic:** They have met at least once. I'm not sure if Ms Saunders has any—

**Ms Saunders:** Ms Luchetti has the details of how often they've met. It's been very frequent.

**Ms Luchetti:** With the working groups I've been involved in, we've so far been quite active. There have been quite a few meetings as well as a few different email exchanges. I'm not involved in all of the working groups, but the few that DPS have been involved in, we've had at least one meeting.

**Senator GALLAGHER:** When did they start meeting? Do you recall that?

**Ms Luchetti:** Yes, I've got the dates here.

**Ms Saunders:** I can assist with this. On 16 December 2021, DPS met with PM&C to discuss the implementation of the Jenkins review. That was the first meeting that the secretary and I were both involved in. Then, following that, there was another meeting. That was attended by DPS with PM&C. That was on 22 December. Some were from the Department of the House of Representatives and the Department of the Senate. That was in relation to the WHS working group. On 6 January 2022, DPS attended a meeting to discuss the health and wellbeing service and a feasibility study. That was attended by two members of the DPS executive, someone from PM&C and another official from the PWSS. On 7 January 2021, DPS provided information to PM&C on the health services that are currently provided at DPS. On 12 January 2021, DPS attended an access and inclusion working group meeting. That was attended by an official from PM&C and the Department of Finance, three officials from DPS, an official from the Department of the House of Representatives, two officials from the Department of the Senate and an official from the PBO. On 12 January 2022, DPS followed up on a request from that meeting for further information on childcare services. On 12 January 2022, DPS provided its internal drug and alcohol policy to the Department of Finance via email—

**Senator GALLAGHER:** It was really the meetings of those groups—I don't necessarily need all the emails to and fro.

**Ms Saunders:** Then there was a further meeting on 20 January, which I attended.

**Senator GALLAGHER:** On what—accessibility and inclusion or workplace safety?

**Ms Saunders:** That was to discuss with PM&C all of the recommendations, actually, and how DPS could assist in implementing those recommendations.

**Senator GALLAGHER:** So is that part of the implementation working group, or is that a separate—

**Ms Saunders:** No, it's not. It's a separate process.

**Senator GALLAGHER:** So, outside of those three working groups, there's another process where you're meeting with PM&C to essentially talk about the recommendations as well?

**Ms Saunders:** Yes, we're doing that, not through an informal working group. But, yes, there are frequent meetings.

**Senator GALLAGHER:** So these groups are informal working groups. What does 'informal' mean? Do they just come together as needed, or—

**Ms Saunders:** That was a discussion on that date, from my perspective, to make sure that we were doing everything that we could to enable the implementation of the Jenkins review recommendations.

**Senator GALLAGHER:** But are the working groups informal? You just said 'informal' working groups?

**Ms Saunders:** No, sorry; I was clarifying. The other groups are formal.

**Senator GALLAGHER:** Right. Okay.

**Ms Saunders:** That was a meeting between me and an official from PM&C.

**Senator GALLAGHER:** That was a meeting that is like an informal working group. Okay. Got it.

**Ms Luchetti:** On 8 February there was an additional one, the parliamentary induction working group meeting, which was the first meeting of that working group that DPS attended.

**Senator GALLAGHER:** So there's another working group?

**Ms Luchetti:** That was the parliamentary induction working group.

**Senator GALLAGHER:** So there are four working groups?

**Mr Stefanic:** That's correct.

**Senator GALLAGHER:** Are there terms of reference for each of those working groups? If so, could you provide them to the committee?

**Mr Stefanic:** I'll take that on notice, but we'll provide you with whatever we have.

**Senator GALLAGHER:** Thank you, that would be useful because we do want to follow this pretty closely. The health and wellbeing service, what's happening there?

**Ms Luchetti:** I can address that. We had a meeting just to talk about different options, to be able to build and develop that health and wellbeing service. A feasibility study is going to be conducted, just to be able to look at those options that have been made and to make some recommendations on the way forward.

**Senator GALLAGHER:** So the feasibility study is to look at different options, is it, around how you deploy your health and wellbeing service?

**Ms Luchetti:** Yes, that's right—a GP, psychologists, how we can utilise our nurses centre, the health and rec centre as well, into a nice little health and wellbeing hub.

**The President:** I'll jump in here. There'd also be implications for the building and how we utilise the building most effectively.

**Ms Luchetti:** Yes.

**Senator GALLAGHER:** As in?

**The President:** As in do we need to reconfigure spaces to make whatever the best way of implementing this work. So there could be physical changes that are required as well.

**Mr Stefanic:** The feasibility study will be guided by the leadership task force. How that feasibility study is framed and what services will be sought, as part of that health and wellbeing service, will be determined by the task force.

**Senator GALLAGHER:** Where are you getting the funding for this? Who is paying?

**Mr Stefanic:** At this point, it's not resourced. As a result of the feasibility study, we'll be able to make an assessment at that time about what the additional resourcing requirements will be. I guess one of the options is to provide services wholly in-house. Another potential option is to look at a market wraparound service that provides all those services. Each of those will have different cost implications.

**Senator GALLAGHER:** You're just taking someone offline, are you, to do the feasibility? How is it going to be done?

**Mr Stefanic:** I understand the feasibility study is being led by PM&C.

**Senator GALLAGHER:** So you're just providing staffing, essentially, to support it, are you?

**Mr Stefanic:** We're providing all the data and information that would be required to establish that service, taking into account that we already provide elements of that service—for example, our health and recreation centre, and we also have the nurses centre. How those components would fit into the health and wellbeing service, more broadly, are things we need to look as well, but they would certainly be folded in.

**Senator GALLAGHER:** We might learn more about that through the task force, I think. Is there a time frame on that?

**Mr Stefanic:** I understand the feasibility study has to be submitted or completed by 30 May.

**Senator GALLAGHER:** The discussion we've had in the past about access to the building out of hours and all that kind of stuff—you were looking for, I think, extra resourcing around that. Has that been landed yet?

**The President:** I probably should jump in there because that is still a question in front of the appropriations committee.

**Senator GALLAGHER:** So it hasn't progressed further?

**The President:** No, it has not.

**Senator GALLAGHER:** Thank you for that. Last time we met at estimates we had a discussion about the video that you've done for staff training, for responding to serious incidents in the building. I think it was the 13-minute video but you corrected your evidence; it was 11 minutes and 18 seconds. We're now in February. Has every member of the DPS staff viewed that video?

**Mr Stefanic:** That instructional procedural training video is targeted, specifically, to the parliamentary security officers, specifically because the video is a spoken version of the procedures which facilitate how the security officers will respond in the event of a serious incident. The video is specifically targeted to that cohort of approximately 180 staff. It's not intended for general consumption because it is an instruction delivered by one of our senior security training officers to the security officers themselves. But, since that time, Ms Saunders and I have observed the video on a number of occasions, and we've been able to confirm that the video is actually a read-through of the procedure as we had developed and approved.



**Senator GALLAGHER:** Okay, perhaps we'll take a step back. Who has watched the video? Who has seen the video since we last met? I think it was 80 out of 180 when we last discussed it. Where is it today?

**Mr Stefanic:** All security officers, apart from a few on long-term leave, had viewed the video within two weeks of the procedure being approved

**Senator GALLAGHER:** So it's 180 out of 180, or 175 out of 180?

**Mr Stefanic:** It would be close to that.

**Ms Saunders:** Everyone who is not on long-term leave has viewed that instructional video. New recruits will watch it within the first two weeks of commencing their recruit training as well.

**Senator GALLAGHER:** Do you know—is it impossible to give me a number of how many people have seen the video?

**Ms Saunders:** Ms Tunningley may have that number with her, but it is everybody who is not on long-term leave. She's just getting that for you, Senator.

**The President:** We'll come back to you with that number, Senator Gallagher.

**Senator GALLAGHER:** So all security staff who are not on long-term leave have watched the video?

**Ms Saunders:** All security officers, yes.

**Senator GALLAGHER:** What about your executive? Last time we spoke, I think, one member of the executive had viewed the video.

**Mr Stefanic:** That's correct. That was Ms Tunningley, who, as the branch head, was responsible for approving the video. Subsequent to that, both Ms Saunders and I have viewed the video. I don't believe there's a requirement for the other members of the executive to have viewed the video, because it's not relevant to their work.

**The President:** Having viewed the video myself, Senator Gallagher, I can absolutely assure you this is clearly something designed for the security officers. It was an instructional video on a very narrow issue, as described by the officials.

**Senator GALLAGHER:** Ms Tunningley, did you have something?

**Ms Tunningley:** As at 6 January 2022, we had 189 security service officers, five of whom are on long-term leave and haven't watched the video, but all other officers have.

**Senator GALLAGHER:** How many people in your executive, Mr Stefanic?

**Mr Stefanic:** Seventeen in total.

**Senator GALLAGHER:** Seventeen? Out of how many staff in DPS?

**Mr Stefanic:** At last count, 1,163.

**Senator GALLAGHER:** And then the 189 security are a much smaller subset of that.

**Mr Stefanic:** The Parliamentary Security Service is a section within the security branch itself, which is approximately 250 staff.

**Senator GALLAGHER:** So those 189 security—are they called SSOs or—?

**Mr Stefanic:** PSS—parliamentary security staff.

**Senator GALLAGHER:** And then you've got another 60-odd that work in the security branch but are not directly security officers?

**Mr Stefanic:** Correct. That includes people who do the monitoring of our CCTV and our IT. The security network is a separate IT network, so it's the staff that manage that. Our policy staff, training staff, and other administrative people.

**Senator GALLAGHER:** Okay. And they're not required to watch the video or receive training about how to respond to serious incidents?

**Mr Stefanic:** No.

**Senator GALLAGHER:** Because it's not part of their work?

**Mr Stefanic:** That's correct. It is entirely about a procedural response to what the security officer on the floor might find or might be called to attend.

**Senator GALLAGHER:** Okay.

**Mr Stefanic:** It is very specific to, once a security officer has arrived on the scene, what actions they should take to manage that scene and the decision points that they would make. For example, if they, in their preliminary

assessment, decide it would be a serious incident, their first step would be to contact the AFP, and the AFP would make a decision about contacting the PWSS. That's in addition to their normal first-responder duties, which would be to, for example, render first aid if they found someone in a distressed state.

**Senator GALLAGHER:** Post the Higgins alleged rape and all of the reviews that have followed, what, if any, training has been done for the rest of DPS who work in this building?

**Mr Stefanic:** I might ask Ms Saunders to address that for you, Senator.

**Ms Saunders:** We've focused a lot not just since the Foster review or the Jenkins review—we've had a program operating since 2018 to promote cultural reform within the department and also, as part of that, focused on bullying, harassment and discrimination. We have done things like reminded all our staff and refreshed our harassment contact officer network. That's expanded from 13 to currently 17 harassment contact officers, and we have a new volunteer who's about to join that group. They have extensive training as well. They all complete mental health first aid training. In March 2021, bullying, harassment and discrimination training was mandated. In June 2021, all of our content on our intranet that's related to bullying, harassment and discrimination was reviewed and it was rearranged to enhance accessibility and discoverability—in fact, we've got a link on our carousel, which is on the home page of our intranet.

Since August 2021, Ms Luchetti, First Assistant Secretary of Corporate Services Division, has progressively attended branch meetings, where the entire branch is invited to attend. She's discussing DPS's zero tolerance to bullying. The secretary and SES also promote that extensively. The session also covers off on mandatory training; the process for managing bullying, harassment and discrimination complaints; the harassment officer network; support available to employees experiencing bullying, harassment and discrimination; and our suite of updated policies and guidance is explained to staff, and then there's also as much time as people would like dedicated to questions and answers. Those presentations have been really well received, and they'll be repeated on an annual basis. They commenced in August, and they concluded in February this year.

In the consultative forum we've spoken a number of times about positive culture and what we're doing in that space, and Ms Luchetti again spoke at length at that forum on bullying and harassment, and discrimination. Post the Jenkins review being published, we have again reviewed our bullying and harassment, and discrimination policy. We've expanded the procedures. We've provided more guidance. I have reviewed and approved that, and the secretary is in the process of reviewing that at the moment, so we're hoping to publish that on our intranet and provide that to all of our staff shortly.

The Jenkins review also includes a recommendation for mandatory respectful workplaces training. At DPS, we have had that in place for a couple of years now, and we have just recently made that mandatory for all staff as well. We have a series of mandatory training courses for staff, not just bullying and harassment and respectful workplaces, but also in developing a positive culture mandatory training course and an integrity training course that's mandatory for all staff.

**Senator GALLAGHER:** When you say 'mandatory'—you've used that a bit—how do you monitor that?

**Ms Saunders:** Those courses are allocated to people in a learning profile that's established for every single staff member, and our HR section will allocate those courses to each staff member, and then it's monitored to ensure that people have completed it. They're sent reminders, and their supervisors are sent reminders. It's followed up on.

**Senator GALLAGHER:** Can we get a report on how many people have done that training that you've just outlined? I'm pleased to hear all that, but the question I was coming in at was what has changed? I'm trying to understand what has changed since we learnt about what Brittany Higgins experienced in this building. We know that you've changed the training that's required for security staff responding to serious incidents. But there were a range of other things that happened, particularly that weekend, around how senior staff were contacted, what decisions were made there, how the Department of Finance got involved and who had knowledge of that. Have there been any improvements in that area, to understand everybody's role and responsibility and have it clearly mapped out in relation to a serious incident? I'm not asking what existed beforehand; it's post February, or after the allegation of rape that occurred in this building.

**Mr Stefanic:** That serious incident procedure also deals with the security officers and how they respond. The procedure also incorporates, beyond the Parliamentary Security Service, the responses of other entities—for example, the role that the Department of Finance and the PWSS may have in that process. The parts of the procedure that relate to our security staff are quite specific, but there are also other parts of that procedure that deal with how the communication process works after a serious incident has been identified.

**Senator GALLAGHER:** And escalation?

**Mr Stefanic:** Yes.

**Senator GALLAGHER:** So that has changed since Ms Higgins's alleged rape in this building?

**Mr Stefanic:** Yes, because the formation of the PWSS has provided a formal body that that communication flows through, and then the PWSS takes the relevant action.

**Senator GALLAGHER:** So there is a new standard operating procedure around serious incidents?

**Mr Stefanic:** That is the procedure.

**Senator GALLAGHER:** And that is new?

**Mr Stefanic:** Yes.

**Senator GALLAGHER:** And it's been updated to reflect what you learnt from Ms Higgins's experience?

**Mr Stefanic:** The procedure was informed not only through DPS; in developing it, we had consulted with PM&C, the Department of Finance and the AFP. Then, when the PWSS was formed, they had input into the development of that procedure. The procedure wasn't developed by DPS in a vacuum. It was consulted on more broadly to ensure that it would cover the entire range of actions required once a serious incident is identified.

**Ms Saunders:** And it was approved by the Security Management Board, of which the AFP is also a member.

**Senator GALLAGHER:** What thinking has been done by the PWSS group around providing training and advice to other people that work in this building on dealing with serious incidents and how to go about reporting or responding to them? Has DPS looked at any of that?

**Mr Stefanic:** No. That area is within the remit of the PWSS, the Parliamentary Workplace Support Service.

**Senator GALLAGHER:** Who's on that?

**Mr Stefanic:** That is an entity that was established under the Parliamentary Service Act. I understand it was created by an instrument that was tabled in the houses.

**Ms Saunders:** And specifically recommended in the Foster review.

**The President:** They've been undertaking training. I'm sure, Senator Gallagher, you've done the training that PWSS provides to parliamentarians and staff—the safe and respectful workplace training.

**Senator GALLAGHER:** Yes, I've done that.

**The President:** That is ongoing.

**Senator GALLAGHER:** I don't know that it told me what to do in the event that there's a serious incident in the workplace, though. We did go through general—

**The President:** I think it did. It covered pathways of referral that you could take in terms of going to the PWSS or other actions you could take.

**Mr Stefanic:** The PWSS includes psychologists, trauma informed experts in managing a serious incident.

**Ms Saunders:** And they've been extensively promoting the service that they provide.

**Senator GALLAGHER:** Mr Stefanic, in October I asked a similar question, 'If others who work in the building come across something that meets the criteria of a serious incident that they're not necessarily trained in, and it's something that's unusual, how would they know what to do,' and you said:

... we haven't had an opportunity yet to get full communication out about it. I anticipate that we will be doing more to that. We just haven't got to the point of communicating broadly on that yet.

I think that was in relation to the procedure that had just been signed off, because it was new then. Have people been trained on the procedure?

**Mr Stefanic:** Shortly after the last estimates hearing I communicated with all DPS staff and I articulated exactly what the video does, so that there was an understanding of what is required, and also articulated that the Parliamentary Security Service should be contacted in the event that someone is found in a distressed situation.

**Senator GALLAGHER:** So that was to all DPS employees?

**Mr Stefanic:** Correct.

**Senator GALLAGHER:** What about contractors and others that work in this building such as MOP staff and people like that? Is there any advice? Presumably that would go out through Finance. But what about contractors? You'd have a fair few contractors, wouldn't you?

**Mr Stefanic:** We do have contractors, but not a great proportion. I would have to take that on notice.

**Senator GALLAGHER:** About whether they're given information about responding to serious incidents?

**Mr Stefanic:** That's correct.

**Senator GALLAGHER:** Okay. The final question I have in this area is, since the alleged rape and since the public's becoming aware of what happened in this place, do you think the situation has changed to the point that what allegedly occurred to Ms Higgins in this building would be unlikely to or not happen again with the changes that have been put in place?

**Mr Stefanic:** Certainly as concerns my department and the control that we have, or where we intersect with the situation, it's not only the procedures themselves and the actions we've taken—obviously, the articulation of Ms Higgins's experience is almost daily in the news and it's impossible to miss, so I certainly think it is at the forefront of the mind of all our staff, whether they're security staff or not.

**Senator GALLAGHER:** I guess the point I'm trying make here is: have we done enough to make Parliament House as safe as it can be for people in this building?

**The President:** Senator Gallagher, I'm sorry, I'll just jump in. There is an ongoing body of work, and everyone acknowledges that. We heard part of it in parliament last week. Obviously, the Jenkins report is a significant body of work. I'm sure you've read it. It's a very significant amount of activity that needs to happen, and the reality is that it's not going to be done overnight. This is a long process we're undertaking. It's going to take many months, if not longer than that in some cases, to implement and activate those recommendations. I think that's just the reality of the situation. When you're undertaking such a significant body of work, it can never happen instantly. So is there more to be done? Well, there is more being done.

**Senator GALLAGHER:** Yes. I understand there's an ongoing piece of work, but I think there's also a sense of urgency that we'd like to be able to provide confidence that what happened to Ms Higgins and the circumstances around it, one year on from that becoming public and three years on from that incident occurring in this building—that we can offer some sense of confidence that that situation would not happen again. Surely that's not an unreasonable thing to be seeking at this point in time. I understand cultural change will take longer, and I understand that there is a lot of work going on, but I guess I need to know, and women like Ms Higgins need to know, that, if they were in that situation again, we have already effected change, that it wouldn't happen again.

**The President:** I think there has been significant change effected in the building through the implementation of things like the PWSS, through the serious incident procedure. I think that does amount to significant and real change.

**Senator GALLAGHER:** If we start at the beginning, if people present to the building in the early hours of the morning, do you think at that point that there's been enough change that the security staff may set off a series of decisions that would change that outcome—that is, they wouldn't be let into the building or they would be offered some alternative or people would ask a few questions, things like that?

**Mr Stefanic:** As the President indicated earlier, two of the outstanding recommendations of the Foster review are currently with the appropriations committees of both houses. One of those specifically relates to patrolling. The other relates to recording of access after hours. They're two, I guess, critical procedural elements that would inform the way our security staff respond to somebody entering the building. So, once that's resolved, that will, I guess, complete the actions we need to undertake.

**Senator GALLAGHER:** I understand those pieces of work, and we couldn't have approps on Thursday when we were due to have it. But I guess the question I'm asking is: would security staff feel empowered in that situation to act differently than to what happened in Ms Higgins's situation? Surely they're not dependent on a register to note who's coming in out of hours? That data's collected on the swipe-pass system anyway. It's more a question of whether security staff are in a position where they would perhaps ask some questions and would say, 'One of us will come with you as you go to the suite and remain outside.' I mean, are those practical things on offer now, knowing what you know?

**Mr Stefanic:** Given that there are a broad range of building occupants who enter Parliament House, the rules that you would need to apply would have to be consistent across all. The question I guess would be what responsibility we are going to impose on security staff for making judgements about the state of someone's sobriety and whether they should be allowed access. I think they're decisions that the parliament needs to make. Obviously it will impact on the ability of parliamentarians to do their work if, for example, staff of theirs are attempting to enter the building in a similar circumstance.

**Senator GALLAGHER:** I'm not sure I follow you there. I guess what I'm trying to understand is this. Take the situation where you have an MP coming into the building with their bag or whatever, off to do some work at 1 am. They are quite different, aren't they, to, say, a couple of staff arriving at a similar time, under the weather after they've been at the pub or whatever? Are security staff able to make those sorts of judgements? The

parliament isn't there to make the judgements; the security staff are. And it might be an unfair request of them, but I'm trying to understand: if the situation arose that occurred with Ms Higgins, has anything changed? Or, in her situation, would they just be waved through again, because there isn't a register for after-hours access and patrols? That's the question.

**Mr Stefanic:** Their role is primarily to vet people and to conduct security screening; it's not the role of security officers to be making judgements about people's state. It's why it's important for the parliament to decide what the entry requirements or what restrictions would be imposed on someone presenting to the building in a state that might not be acceptable in the workplace.

**Ms Saunders:** I would add that the security staff are trained in applying the definition of a serious incident to a situation that they see, as a first responder. In that event they will contact the AFP. That is contained in the serious incident procedure. It's consistent with the Foster review and they've been trained in that.

**Senator GALLAGHER:** Yes, but preventive steps are not part of the role of the security staff? I guess what I'm struggling with is this: using a hypothetical situation, if a young man and a young woman enter the building at 1.30 or 2.30 in the morning, noticeably drunk or having had a big night out, then, as it stands at the moment, if they are passholders, security staff would let them into the building?

**Ms Saunders:** It would probably be helpful if Ms Tunningley were to read out the definition. I can see that she has it right there. That's what we are following, because it is contained in the Foster review. It's word for word from that review; it's been consulted on with all the parties that the secretary discussed just earlier and it's on the record from the last hearing as well.

**Ms Tunningley:** It says:

1. A 'Serious Incident' is interpreted as "an incident or pattern of behaviour that causes serious harm to someone".
2. One or more of these factors suggest a Serious Incident may have occurred, where a person:
  - appears impaired (by alcohol or drugs) and is behaving in a way that departs from what one would expect at a workplace
  - is visibly distressed
  - is in a state of undress
  - is engaging in sexual behaviour,
  - is engaging in, or has been the victim of, physical or verbal abuse
  - is engaging in illicit behaviour (e.g. drug use), or
  - any other behaviour of concern that is inconsistent with expected workplace behaviour.

**Senator GALLAGHER:** I understand that—

**The President:** In conjunction with the outstanding issues that the appropriations team has to deal with, I think that we are getting to a point where, clearly, things have changed.

**Senator GALLAGHER:** Yes, and I don't want to go before matters before the committee. I understand it's largely about patrols and after-hours access, but I think the thing that worries me is that it doesn't sound like—the serious incident training is all good and excellent, but the vulnerability that was created in terms of accessing the building is still a problem. If that scenario happened again today, you're saying to me that your staff have no ability to say, 'Look, guys, this isn't a good idea. You're drunk. You're not coming into the building.' If you're a passholder, you're just allowed in, and there's nothing to stop that?

**Mr Stefanic:** That's not strictly true, Senator. Given the scenario that you've painted, and with the procedure, the next step for our security staff would be to contact the AFP. Based on the procedure, their assessment in that scenario would be to contact the AFP, and then they would attend and make an assessment based on their presence at the scene.

**Senator GALLAGHER:** So that is at entry to the building?

**Mr Stefanic:** That could apply at entry to the building as well—

**Senator GALLAGHER:** Okay, so the presentation is seen as a serious incident.

**The President:** Or it could apply if a security officer encountered something of that nature in the building—they could involve the AFP as well, so it's not just at the point of entry.

**Senator GALLAGHER:** I understand that. My question was whether they would be waved into the building if they—but you're saying to me that if they present as being inebriated, it's in the early hours of the morning and

it's unclear what they're there for—not that anyone is passing judgement—that is enough for your security staff to say, 'This is a serious incident, and I'm calling the cops'?

**Mr Stefanic:** Correct. The 'serious incident' definition is quite broadly drawn. Obviously, security officers make judgements in real time based on what they see, but certainly there's enough in that procedure that would allow them to make that judgement.

**Senator GALLAGHER:** Thank you. That's all from me.

**Senator AYRES:** Senator Gallagher asked some questions about protest activity and the arrangements that were in place. I want to take those questions a little further, Mr Stefanic. When did the first protest activity occur?

**Mr Stefanic:** You're talking about the current, the most recent—

**Senator AYRES:** Not the first protest activity ever. The protest activity—

**Mr Stefanic:** It's been ongoing for—

**Senator AYRES:** There was the activity at Old Parliament House, where demonstrators set fire to the entrance to the building. In terms of this building, what's—

**Mr Stefanic:** I'll take on notice when exactly it first started. What I can say, Senator, is that the current protest action, if I could call it that, commenced before Christmas, and it has ebbed and flowed. Sometimes it has focused more around the foreshore in front of Old Parliament House. At times, there have been smaller groups coming up to Parliament House.

**Senator AYRES:** When were the staff notified about the road closures? My notes say 2 February.

**Mr Stefanic:** I'll need to confirm that, but that sounds correct to me. It would have been late in the evening. I recall we sent a message out, based on an assessment that the AFP had done, about the risk to the precinct. They had made the decision to place barriers on Commonwealth and Kings Avenues.

**Senator AYRES:** When did those barriers go up?

**Mr Stefanic:** It would have been—

**Ms Saunders:** I believe it was the evening of 1 February, but we will take that on notice.

**Senator AYRES:** Take that on notice for me. So that notification that we all saw on 2 February—were government ministerial staff notified prior to that?

**Mr Stefanic:** The information circular would have gone to the entire parliament. There wouldn't have been any specific communication from DPS to those beyond that.

**Senator AYRES:** But were government and ministerial staff notified prior to the email you sent to—

**Mr Stefanic:** Not specifically by DPS. They would have relied on our information circular, which we had sent out to all building occupants.

**Senator AYRES:** What about contractors and other staff?

**Mr Stefanic:** If they were contractors or other staff that have access to our network, they would have received the same message as other users.

**Senator AYRES:** And if they didn't?

**Mr Stefanic:** There certainly were cases where they—

**Senator AYRES:** I just want you to be precise about the—

**Mr Stefanic:** There are certainly instances where they would not have been aware.

**Senator AYRES:** Was there any additional advice sought by DPS in relation to the protesters, other than that which was provided to MPs by the AFP? Did you seek other advice about the protest activity?

**Mr Stefanic:** As Ms Saunders pointed out, we do work quite closely with the AFP. Certainly, when there is protest activity, there's close communication with Ms Tunningley and her counterpart in the AFP. We obviously rely on their intelligence and we work with them to make judgements about what restrictions are imposed on the precincts.

**Senator AYRES:** There were a group of protesters that Mr Kelly escorted into the building last week. Were there any precautions taken in relation to that group?

**Mr Stefanic:** There certainly were. There was a detail, both AFP and parliamentary security staff, that monitored that group at all times while they were in the building.

**Senator AYRES:** How did that work? They were admitted. Were they made aware of the building protocols, to put a mask on, keep it on, all that sort of stuff?

**Mr Stefanic:** Yes, they were. As I recall, they were—

**Senator AYRES:** How was that managed?

**Mr Stefanic:** As I recall, they were initially—some members were turned away because they had protest paraphernalia on them. When they returned without that paraphernalia—

**Senator AYRES:** Yes, T-shirts on inside out and that sort of thing.

**Mr Stefanic:** Correct. Then they were advised of the building requirements. I understand—Ms Tunningley can correct me if I'm wrong—they complied with the mask-wearing, undertook security screening and then were signed in by Mr Kelly, which he was entitled to do. But given the nature of the protest and the group, we already had staff deployed to ensure that once they entered the building they would not be lost.

**Senator AYRES:** How long is the ban on the public attending the galleries or the parliament going to continue?

**The President:** I probably should take that one. Basically the Presiding Officers jointly make a decision on the arrangements for Parliament House. We obviously take medical advice on the situation at the time. The advice we had before this sitting period was that, particularly because of the wave of omicron in the ACT and obviously throughout Australia, the settings that we currently have were advisable. But obviously we will take further advice on the settings going forward.

**Senator AYRES:** Further advice from whom?

**The President:** There are a range of health officials. The deputy CMO is probably the principal source of advice. I can get you a more complete list on notice, if you'd like, Senator Ayres.

**Senator AYRES:** I just want to understand. So it's not just ACT Health; it's the deputy CMO and ACT Health?

**The President:** ACT Health is involved, yes.

**Senator AYRES:** Has the public health ban been consistent with ACT Health's advice, or are you saying you're getting other advice?

**The President:** It has been consistent with ACT Health advice.

**Senator AYRES:** At all times?

**The President:** I don't think we've ever varied remarkably from that. Sometimes our settings have reflected—the difficulty we have is that there have been times during this pandemic when one jurisdiction has been COVID free and others haven't. There have also been times when jurisdictions outside the ACT have had COVID when the ACT hasn't. So, obviously, we've had a two-way concern in that regard. We wanted to avoid bringing COVID into the ACT when it was COVID free. And for senators from my home state, Western Australia, but this also applied to Tasmania and South Australia at various points—when there was no COVID in those jurisdictions, we also took into account the desire to not spread the virus out from the eastern states to other states.

**Senator AYRES:** It's a very significant departure from one of the aspects of this building that's important for it as an institution—that is, the capacity for the public to be able to visit to attend in the gallery.

**The President:** Yes, I absolutely agree.

**Senator AYRES:** Last week the Presiding Officers and a number of the party leaders gave speeches in relation to the apology that flowed from the Jenkins report. Was consideration given to allowing people to attend in a socially distanced and safe way?

**The President:** Yes, and my understanding is that in the House of Representatives people did attend in that way. They had to be signed in by an individual member of parliament—

**Senator AYRES:** It was a bit last minute—

**The President:** We were never going to make the building open to the public because it would have simply been impossible to police the galleries and the social distancing in that kind of environment. If we had 500 or 600 people turn up, for example, it would have been very difficult to manage that. It was done effectively—there was one person in the Senate galleries for a condolence motion, for example. There was a small number for a first speech this week, as you would have seen. So there has been an availability, but it needed to be done in a controllable manner. But it's not public access.

**Senator AYRES:** That's right. It's not public access. There were, belatedly, some arrangements made last week for some people, but it wasn't public access—

**The President:** No.

**Senator AYRES:** provided, as you say, on condolence motions—

**The President:** The very clear health advice we had was—

**Senator AYRES:** Resignations, family of attended—

**The President:** that the building should not be open—

**Senator AYRES:** Are you comfortable with that continuing?

**The President:** After this week?

**Senator AYRES:** Yes.

**The President:** I expect those arrangements to be reviewed. I'm not going to pre-empt a decision. It's a joint decision made with the Speaker, so I can't pre-empt his decision. But we certainly have that under active review, Senator Ayres.

**Senator AYRES:** Are you comfortable with the public being excluded from the building?

**The President:** As a general principle, absolutely not. This is a public building. This is a building of the Australian people.

**Senator AYRES:** Mr Stefanic, can you tell me how many visitor passes have been issued at the ministerial wing entrance in the past sitting fortnight?

**Mr Stefanic:** I'd have to take that on notice. And perhaps I could just loop back to the road closures. I've got some further information for you. The road closure initially occurred on 31 January, and the first information circular was sent on 31 January at 10.30 pm.

**Senator AYRES:** Who was that sent to?

**Mr Stefanic:** That was an information circular that went to all of Parliament House—the entire network.

**Senator AYRES:** Perhaps you could provide that on notice, or later in the day, but did that tell people about the road closures?

**Mr Stefanic:** I have it in front of me. It's titled 'Protest activity around Parliament House—road barriers' and says:

Due to the protest activity near Parliament House, the Australian Federal Police has closed access roads to the building.

Building occupants wanting to enter the car parks or drop-off points may need to show identification ... to police who are at the barricades.

Please exercise care and allow extra time to complete your journey.

I can table that for you, if you like.

**Senator AYRES:** Yes, thank you. That would be helpful.

**Mr Stefanic:** Then there was a follow-up message—which I don't have in front of me, but I'm happy to table that as well—on 2 February, which was a reminder about the road closures and provided specific advice about access through Melbourne Avenue.

**Senator AYRES:** Thank you. Just to assist the chair and the committee, I reckon I've got about five minutes worth of questions to go, so perhaps we could go to morning tea earlier.

**CHAIR:** Yes, I was going to propose that we just go to morning tea a little earlier. Thank you, Senator Ayres.

**Senator AYRES:** Just one final bracket of questions, then, Mr Stefanic, on the issue of casual staff access to the parliamentary computer network. Is there somebody here who could assist with that?

**Mr Stefanic:** I will ask the acting CIO to come up.

**Senator AYRES:** I think this was raised during the last session of estimates. Staff employed on casual contracts should automatically have their access to emails and the IT systems terminated at the end of their contract, which means they have to renew their arrangements every 28 days. There's a lot of time wasting and mucking around involved in that. Has this issue been resolved? And I'll very quickly be out of my depth if we start going too far into IT stuff. So has it been fixed? And how has it been fixed? That is what I really want to know.

**Mr Stefanic:** It has not been resolved yet. It's a matter of process between the Department of Finance and ourselves. For casual staff who work for parliamentarians, we receive notification from the Department of Finance before we put them on our network, and then we rely on notification from the Department of Finance to remove them from the network. That is an automated process where we are advised. We simply follow advice that we receive from the Department of Finance. What we are exploring now is how we could potentially leave casual



staff with an active email account. That is an easier process to switch on once they return. The problem for us is that some casual staff work for multiple members of parliament. So, having an identity that gives people network access to one area becomes problematic, because you would need multiple identities for that person across the network. That is one of the broader security issues we need to work through. I don't know whether Mr Sfyris can—

**Mr Sfyris:** What Mr Stefanic has indicated is correct; we're currently working through the issue with the Department of Finance. One of the things that we are working through with them is that we have the obligation to follow the guidance that's provided to us by Finance as the employing agency.

**Senator AYRES:** Last time we spoke about this, Finance, DPS and the Special Minister of State were all engaged in this process. If the question is 'has anything changed', the answer is no?

**Mr Sfyris:** Correct.

**The President:** I think you can appreciate though, Senator Ayres, the difficulty here is: if you and your two colleagues employ the same person on a casual basis, but then employment drops off for one, two or three of you and then comes back on for one of you, what emails they have access to and what parts of the network they have access to—you have some quite complex moving parts there that need to be dealt with.

**Senator AYRES:** I start to lose the will to live when I think about the problem too much! But that's the job of the department and the Department of Finance to resolve.

**The President:** Absolutely.

**Senator AYRES:** I'm not quite sure why that's been too difficult to resolve.

**Senator MARIELLE SMITH:** Sorry, Senator Ayres. How many casual staff are working across multiple offices versus casual staff whom you know are repeatedly employed within the same office?

**Mr Sfyris:** I don't have those numbers on me. I need to take that on notice and get those numbers.

**Senator MARIELLE SMITH:** Is that something that you can find, because if that's the issue which is making this problem insurmountable to solve, it would be good to know how many staff it affects; if you can you separate those staff out under another rule; and if you have visibility over which staff in the building are repeatedly working for the same member of parliament under these contracts.

**Mr Stefanic:** It's certainly a matter we'll look into.

**Senator MARIELLE SMITH:** Further to Senator Ayres's questions, what are your plans for the next steps to resolve this, because I understand there are a lot of issues and complexity, and where to next?

**Mr Sfyris:** We are still working with the Department of Finance to look—as the secretary indicated—at the synchronisation, looking at whether we'll continue to use the synchronisation of accounts from cessations from Finance, and then looking potentially at other options/alternatives where we may use that information plus information directly from parliamentarians.

**Senator MARIELLE SMITH:** Do you expect when we're back here in a month's time for the next estimates you'll have a fix or at least a plan for a fix? Is that something you can commit to?

**Mr Sfyris:** I think one of the things that I need to highlight is that the obligation under the Protective Security Policy Framework specifically specifies that Finance retains responsibility for initiating the clearance process and managing the separation process and not DPS. So we are bound under that component to take the advice specifically from Finance, while we're working through what we can do within that guideline and what would be acceptable to ensure that we are maintaining compliance with that requirement of the PSPF.

**Senator AYRES:** Just two more questions, Chair, on computer outages, ICT outages. Have any of those this year been the result of hacks or cybersecurity breaches?

**Mr Stefanic:** No, they haven't.

**Senator AYRES:** None this year. Mr Stefanic, there's been some anticipation that there'll be some changes to air filtration and ventilation in the parliament as a response to the pandemic. Are there plans to do any of that work?

**Mr Stefanic:** I'm not aware of any. I know that we upgraded our air filtration during the fires, which introduced a higher standard of filtration because of the particulates in the air. I'm not aware of any—

**Senator AYRES:** So no plans for in the building or childcare centre?

**Mr Stefanic:** No. The building air conditioning meets all building requirements.

**Ms Saunders:** And the air quality is frequently checked.

**Senator AYRES:** Thank you.

**CHAIR:** Thank you very much, Senator Ayres. If senators have no other questions, we will dismiss DPS with our thanks for appearing here today. That concludes our examination of the parliamentary departments. The committee will now suspend for a short break and return to commence its examination of the Prime Minister and Cabinet portfolio.

**Proceedings suspended from 10:19 to 10:36**

**PRIME MINISTER AND CABINET PORTFOLIO****In Attendance**

Senator Birmingham, Minister for Finance

Senator Duniam, Assistant Minister for Forestry and Fisheries, Assistant Minister for Industry Development

Senator McKenzie, Minister for Emergency Management and National Recovery and Resilience, Minister for Regionalisation, Regional Communications and Regional Education

Senator Payne, Minister for Foreign Affairs, Minister for Women

**Department of the Prime Minister and Cabinet****Economic, Industry and G20 Sherpa Group**

Mr Simon Duggan, Deputy Secretary, Economy, Industry and G20 Sherpa

Mr James Chisholm, Acting Deputy Secretary, Economic, Industry and G20 Sherpa Group

Mr Jason McDonald, First Assistant Secretary, Regulatory Reform

Mr James O'Toole, Acting First Assistant Secretary, Economic Division

Ms Michelle Dowdell, First Assistant Secretary, Digital Technologies Taskforce

Ms Kristen Tilley, First Assistant Secretary, Office of Supply Chain Resilience

Mr Jason Lange, Assistant Secretary, Office of Best Practice Regulation

Mr David Pullen, Acting First Assistant Secretary, Clean Energy Summit Taskforce

**Social Policy Group**

Ms Alison Frame, Deputy Secretary, Social Policy Group

Ms Genevieve Quilty, First Assistant Secretary, Social Policy Division

Ms Lee Steel, First Assistant Secretary, Intergovernmental Relations and Reform Division

Ms Rachel Lloyd, Assistant Secretary, COVID-19 Response Taskforce

Mr John Neil, Assistant Secretary, COVID-19 Health Priorities

Mr Shane Johnson, First Assistant Secretary, Policy Innovation and Projects

Mr Gayle Milnes, National Data Commissioner Designate

Ms Kimberley McDonald, Assistant Secretary, Mental Health and Suicide Prevention Reform

Ms Megan Leahy, Assistant Secretary, Education and Immigration

Ms Victoria Pullen, Assistant Secretary, Social Services, Indigenous, Veterans Affairs and Disability

Ms Rebekah Kilpatrick, Assistant Secretary, National Office for Child Safety

Mr Andrew Lalor, Assistant Secretary, Data and Digital

Ms Susan Calvert, Assistant Secretary, Office of the National Data Commissioner

Mr Russel de Burgh, Assistant Secretary, Aged Care

**National Security and International Policy Group**

Mr Scott Dewar, Deputy Secretary, Quad, AUKUS and Naval Shipbuilding [by video link]

Mr Rod Brazier, Acting Deputy Secretary, National Security and International Policy

Mr Lachlan Colquhoun, First Assistant Secretary, National Security Division

Mr Trevor Jones, Assistant Secretary, Disaster Preparedness, Plans and Incident Management

Ms Elizabeth McGregor, Acting First Assistant Secretary, International Division

Mr Max Willis, Assistant Secretary, Pacific

Mr Simon O'Connor, Acting Assistant Secretary, Asia

Ms Gemma Smyth, Assistant Secretary, Domestic Security

Mr Matthew Fox, Assistant Secretary, Quad and AUKUS Policy

Ms Louise Talbot, Deputy Coordinator, Critical Technologies Policy Coordination Office

Mr Matthew Flint, Assistant Secretary, Nuclear Powered Submarines and National Naval Shipbuilding

Mr Ash Collingburn, Assistant Secretary, Global Interests

**Governance and APS Reform Group**

Ms Stephanie Foster PSM, Deputy Secretary, Governance, and Head, APS Reform  
Mr John Reid, First Assistant Secretary, Government Division  
Ms Leonie McGregor, First Assistant Secretary, Cabinet Division  
Ms Petra Gartmann, Assistant Secretary, Legal Policy  
Mr Peter Rush, Assistant Secretary, Parliamentary and Government  
Mr Alistair Campbell, Assistant Secretary, Priorities and Deliveries Unit  
Ms Angie McKenzie, Assistant Secretary, National Cabinet  
Ms Ali Jenkins, Acting First Assistant Secretary, APS Reform  
Mr Paul Hupalo, Assistant Secretary, Cabinet Secretariat  
Mr Hugh Cameron, Assistant Secretary, National Security and Cabinet Systems

**Chief Operating Officer Group**

Mr Tom Gilmartin, Chief Operating Officer  
Mr Gerard Martin, First Assistant Secretary, Ministerial Support Division  
Ms Michelle Wicks, First Assistant Secretary, Corporate  
Ms Michelle Crowther, Chief Financial Officer  
Ms Mel Bopping, Chief People Officer  
Ms Sam Portelli, Chief Information Officer  
Ms Alison Green, Assistant Secretary, Protocol and International Visits

**Office for Women**

Ms Alison Frame, Deputy Secretary, Social Policy Group  
Ms Kaylene Zakharoff, First Assistant Secretary  
Ms Chantelle Stratford, Assistant Secretary, Women's Economic Security  
Ms Hope Peisley, Assistant Secretary, Women's Safety and International Policy  
Ms Clancie Hall, Acting Assistant Secretary, Programs and Engagement

**Workplace Gender Equality Agency**

Ms Mary Wooldridge, Director [by audio link]

**Office of the Official Secretary to the Governor-General**

Mr Paul Singer, Official Secretary to the Governor-General  
Ms Jo Tarnawsky, Deputy Official Secretary to the Governor-General

**Australian Public Service Commission**

Mr Peter Woolcott AO, Australian Public Service Commissioner  
Mr Patrick Hetherington, Deputy Australian Public Service Commissioner  
Ms Rina Bruinsma, First Assistant Commissioner  
Mr Grant Lovelock, First Assistant Commissioner, Head of Academy  
Mr Marco Spaccavento, Assistant Commissioner, Workplace Relations  
Ms Katrina Purcell, Assistant Commissioner, Strategic Policy and Research  
Ms Giorgina Strangio, Assistant Commissioner, Integrity, Performance and Employment Policy  
Ms Ashley Sedgwick, Assistant Commissioner, Hierarchy and Classification Review

**Parliamentary Workplace Support Service**

Ms Meg Brighton, Head of the Parliamentary Workplace Support Service

**National Recovery and Resilience Agency**

The Hon. Shane L Stone AC QC, Coordinator-General  
Mr Nico Padovan PSM, Chief Operating Officer  
Ms Viv Johnson, Executive Manager, Policies and Programs

Ms Katrina Tonkin, Chief Financial Officer

Ms Alison Sommerville, Executive Director, Recovery Operations Branch

Ms Hannah Wandel OAM, Executive Director, Resilience Strategy and Design Branch

Mr Gary Shipway, Executive Director, Communications Branch

Ms Elyse Herrald-Woods, Executive Director, Recovery Programs and Evaluation Branch

#### **Australian National Audit Office**

Mr Grant Hehir, Auditor-General

Ms Rona Mellor PSM, Deputy Auditor-General

Mr Bola Oyetunji, Group Executive Director, Assurance Audit Services Group

Ms Carla Jago, Group Executive Director, Performance Audit Services Group

Dr Tom Ioannou, Group Executive Director, Performance Audit Services Group

Mr Brian Boyd, Executive Director, Performance Audit Services Group

Mr Daniel Whyte, Acting Executive Director, Performance Audit Services Group

Mr George Sotiropoulos, Group Executive Director, Performance Statements Audit Services Group

Ms Jane Meade, Group Executive Director, Professional Services and Relationships Group

Ms Jacquie Walton, Senior Executive Director, Corporate Management Group

#### **Digital Transformation Agency**

Mr Chris Fechner, Chief Executive Officer

Mr Wayne Poels, General Manager, Investment—Advice, Contestability and Assurance

Ms Lucy Poole, General Manager, Digital Strategy, Standards and Policy

Ms Tanja Cvijanovic, General Manager, Digital Discovery and Sourcing

Mr George-Philip de Wet, Branch Manager, Corporate

Ms Michelle Tuck, Branch Manager, Digital Sourcing

Ms Juleigh Cook, Branch Manager, Digital Identity

#### **Department of the Prime Minister and Cabinet**

**CHAIR:** If everyone is ready to go, I'll reconvene the meeting of the committee. I welcome the Minister for Finance, Senator the Hon. Simon Birmingham, representing the Prime Minister; Ms Stephanie Foster, Deputy Secretary of Governance and Head of APS Reform; and other officers of the Department of the Prime Minister and Cabinet. Minister, do you want to make an opening statement?

**Senator Birmingham:** Good morning, Chair and senators. Thank you for the opportunity. Aside from wishing you all a very happy Valentine's Day, I have no particular opening statement.

**CHAIR:** Thank you. Happy Valentine's Day to you too, Minister! Ms Foster, do you wish to make an opening statement?

**Ms Foster:** The members of PM&C's executive in attendance for this session to answer your questions are Ms Alison Frame, Deputy Secretary, Social Policy; Mr Simon Duggan, Deputy Secretary, Economy, Industry and G20 Sherpa; Mr Tom Gilmartin, Chief Operating Officer; and Mr Rod Brazier, Acting Deputy Secretary, National Security and International Policy. Mr Scott Dewar, Deputy Secretary, Quad, AUKUS and Naval Shipbuilding, is overseas and available online. In recognition of his location and the time difference with the UK, we would be appreciative if Mr Dewar would be able to receive questions earlier in the hearings, if that could be accommodated.

The department has ensured key senior officials are physically present here at APH to assist the committee. There are also a number of senior officials attending virtually, who are available to answer questions. There may be a slight delay for those witnesses attending virtually as they join the session, and a detailed list has been provided to the committee secretariat. Since the last estimates, the changes to the executive are Mr Scott Dewar, commencing as Deputy Secretary, National Security and International Policy, on 29 November 2021. On 7 February 2022 a new deputy secretary position, Deputy Secretary, Quad, AUKUS and Naval Shipbuilding, was established within the National Security and International Policy Group. Mr Scott Dewar has taken on this new deputy secretary position. Mr Rod Brazier will be Acting Deputy Secretary, National Security and International Policy in the interim. I have PM&C's current organisational chart here for the committee.

**CHAIR:** Thank you very much, Ms Foster. Senator Gallagher, you have the call.

**Senator GALLAGHER:** Is the organisational chart being circulated?

**Ms Foster:** It should be being tabled as we speak.

**Senator GALLAGHER:** Thank you.

**Ms Foster:** I have a copy here if no-one else does.

**Senator GALLAGHER:** I'll start with some questions for Mr Dewar, who I understand is time limited today. Will he be able to answer some questions I have on Ukraine?

**Ms Foster:** Yes, to the extent that we can do that, though Mr Brazier may well be able to assist and he is here with us.

**Mr Brazier:** Good morning Senator.

**Senator GALLAGHER:** Can you please provide the committee with an update on the current situation in the Ukraine?

**Mr Brazier:** Yes, I can. As has been reported in the media, Russia is amassing considerable military strength on its borders and on Belarus's borders with Ukraine. The international community has urged Russia not to take steps that could endanger peace in the region. The Australian government is, of course, very concerned about Ukraine not being intimidated in this way. There's an inherent concern in that respect, but there's also a concern about the effect on global norms that tolerance of this sort of behaviour could have. As of yesterday morning, as a result of the threat to peace and stability in the region, the Australian embassy in Kyiv was temporarily closed. The Australian based DFAT staff and AFP staff left Kyiv by road and, at 6.30 Ukraine time yesterday, those staff arrived in the city of Lviv in the west of Ukraine, where the embassy has set up a facility for operations. This is a temporary move that will be kept under review, considering the security situation. Posts are in contact with like-minded agencies that have also relocated to Lviv. Locally engaged staff, who are employed via an arrangement with the Canadian embassy, will be placed on paid miscellaneous leave for a period of two weeks.

**Senator Birmingham:** If my memory is correct, that relocation was the final three embassy officials—

**Senator GALLAGHER:** Is this the one that happened yesterday?

**Senator Birmingham:** Yes, that's right. There had been steps over a period of time that saw partners and children of Australian officials relocated or come home. Then there were a reduced number of officials overall as a relocation took place, with three individuals staying to continue to provide consular assistance to Australians who were still in the Ukraine. As the Prime Minister did yesterday, I'd echo those particular thanks to our officials who find themselves in the world's hotspots on occasions like this and continue to serve Australia's interests and help Australians in those circumstances.

**Senator GALLAGHER:** Yes. I agree. Does the Australian government have an understanding of how many Russian troops are currently mobilised on Ukraine's eastern border?

**Mr Brazier:** In the Department of Foreign Affairs and Trade and the Department of Defence, there would be a detailed understanding of that, but it's in the many tens of thousands.

**Senator GALLAGHER:** So you don't have that information with you? It's just we don't get to that until later in the week.

**Mr Brazier:** I could find an estimate for you and share it with you during the course of the hearing.

**Senator GALLAGHER:** I do have a number of questions on Ukraine, so I'll just work through them. There have been reports that Russia has mobilised logistical support, including hospital units, to support its troop deployments. Have these reports been verified by the Australian government?

**Mr Brazier:** That would be part of the normal kind of mobilisation that Russia is conducting. I've seen those media reports.

**Senator GALLAGHER:** But you're not sure if we've confirmed that independently?

**Senator Birmingham:** For a little bit of context, I don't believe that Australia would be confirming independently those types of reports. We are working very closely with partners and allies in engagement about the situation along the Ukrainian border. The information we have is part of that cooperative effort in terms of the surveillance and analysis undertaken by many nations. Mr Brazier has indicated he can get further information, perhaps during the course of this morning, from Foreign Affairs and Defence to supplement what he has to hand, but, as a general observation, the media reports about the scale of the build-up and the nature of that build-up, including the types of resources that Russia has put into that, are reports that I think have been well informed in terms of the analysis of our partners and allies working together on what Russia is doing.

**Senator GALLAGHER:** When was the decision made to close the embassy in Kyiv?

**Mr Brazier:** I understand that decision was made over the weekend.

**Senator GALLAGHER:** Sometime over the weekend—it was announced yesterday morning, wasn't it? So it had to have been Saturday, then.

**Mr Brazier:** I think that's right, yes.

**Senator GALLAGHER:** Right, on Saturday. Do you know how many Australians remaining in Ukraine are registered with DFAT?

**Mr Brazier:** There are 147 Australian citizens, permanent residents and dependents presently registered with DFAT.

**Senator GALLAGHER:** Who remain in Ukraine as at now?

**Mr Brazier:** That's my understanding.

**Senator GALLAGHER:** And what advice and assistance is the government able to offer them at this time?

**Mr Brazier:** Australia's travel advice for Ukraine was updated to 'Do not travel' on 24 January. This was supplemented by further advice to leave immediately on 8 February. The embassy in Kyiv would have been in direct contact with all those Australians, permanent residents and dependents that were appropriately registered, to convey the advice that they needed to leave immediately. As the Prime Minister has said, there are still commercial means for Australians to take heed of this advice, and they should do so as soon as possible.

**Senator GALLAGHER:** Has the government reached out to those people that remain?

**Mr Brazier:** To those who are registered with DFAT.

**Senator GALLAGHER:** That's the 147.

**Mr Brazier:** That's right, Senator.

**Senator GALLAGHER:** Have they been individually spoken to, or is there another way they are—

**Senator Birmingham:** I certainly understand that DFAT has been in touch over a period of time—from the warnings and notification and advice changes that Mr Brazier went through, particularly the 8 February indication that people should leave the Ukraine—and that DFAT has been in contact via email, text message type means, with those Australians registered as being in the Ukraine to provide information about the different avenues for leaving, including assistance with the commercial booking of flights. Of course, there are also avenues for departing by land, by road and through western Ukraine into different safe havens as well that individuals have used for passage. I can't recall the exact figure, but the one Mr Brazier now gives of the number of registered Australians in Ukraine is significantly lower than the one I recall being briefed on several weeks ago.

**Mr Brazier:** That's right.

**Senator GALLAGHER:** Before you go to that, do you know how many people registered with DFAT have left since those advisories were provided?

**Mr Brazier:** The figure of around last week was around 170 or 180, so that number has fallen. And just to circle back to your question regarding whether all those individuals have been contacted: that number may be comprised of family units, for example, where there is a single point of contact.

**Senator GALLAGHER:** So it's not 147 individuals?

**Mr Brazier:** It is 147 individuals but, for example, if there was a family unit, there would probably be a single point of contact for that.

**Senator GALLAGHER:** So the embassy closed yesterday after a decision taken on Saturday. You said, I think, in your opening comments that at 6.30—pm, I presume—Ukrainian time—

**Mr Brazier:** That's right.

**Senator GALLAGHER:** the temporary arrangements were put in place in Lviv. Is that right?

**Mr Brazier:** That's correct.

**Senator GALLAGHER:** That's the three people, or is it more than that?

**Mr Brazier:** Three diplomats and two AFP officers.

**Senator GALLAGHER:** There were five people that left Kyiv?

**Mr Brazier:** There were five that left Kyiv, yes.

**Senator GALLAGHER:** So three DFAT employees and two AFP.

**Mr Brazier:** Yes.

**Senator GALLAGHER:** And later that same day they were able to get temporary arrangements up and running?

**Mr Brazier:** Those arrangements had been put in place in advance of that movement.

**Senator GALLAGHER:** But they were able to staff them?

**Mr Brazier:** That's right, and they travelled overland to Lviv.

**Senator Birmingham:** For a little context, the AFP presence in Ukraine is, in particular, still related to ongoing cooperation as part of the response to MH17 and the ongoing work that we have had with the Netherlands, Ukraine and, of course, Australian officials around the prosecution of individuals in relation to MH17.

**Senator GALLAGHER:** So they're there on a specific task; they're not there providing protection?

**Senator Birmingham:** No. Our Ukrainian embassy has had what would appear to be—on a normalised basis—an elevated presence of AFP officials as a result of that cooperation around those ongoing investigations and prosecutions.

**Senator GALLAGHER:** Could you briefly summarise for the committee how the international community, particularly the US and European states, have responded to the situation in Ukraine?

**Mr Brazier:** Several NATO members, led by the United States, have provided technical assistance, advice, for the Ukrainian government, including its defence forces, in recent weeks, as the Russian build-up has occurred. They have foreshadowed other forms of response, including sanctions against those who would be involved in any illegal encroachment onto Ukrainian territory. Also—as you would have seen in the media—several leaders have in recent days engaged in what might be called shuttle diplomacy to have face-to-face meetings, including with President Putin and President Zelensky, to encourage a peaceful resolution of the present tensions.

**Senator GALLAGHER:** The Prime Minister here has said Australia supports Ukrainian sovereignty and territorial integrity. What steps has Australia taken to demonstrate that support, and how are we responding to the situation in Ukraine?

**Mr Brazier:** I've got an answer to the earlier question, before I answer that question.

**Senator GALLAGHER:** Sure.

**Mr Brazier:** I've got an estimate of 130,000 Russian troops on the border. That's in Russian territory but also to the immediate north of Ukraine, in Belarus.

On the support Australia is providing to Ukraine: over the past 12 months, Defence has funded capacity building, training and cybersecurity to Ukraine officials in recognition of the fact that cyberattacks increasing in volume and frequency would be expected in this situation. So Australia has provided training in that area. Australia's Ambassador for Cyber Affairs and Critical Technology has discussed assistance directly with the government of Ukraine. The government is currently considering what other options it can provide to support Ukraine.

**Senator GALLAGHER:** The Australian government is currently considering that?

**Mr Brazier:** Yes. It's being kept under review.

**Senator GALLAGHER:** Okay. When you said 'cybersecurity training', I think you did mention a date. You said over the last—

**Mr Brazier:** Over the last 12 months.

**Senator GALLAGHER:** So the Australian government has been providing training to the Ukrainian government officials in cybersecurity since February last year. Is that right?

**Mr Brazier:** That's correct.

**Senator GALLAGHER:** That predates the announcement on 25 January where the foreign minister said:

What we are asking our Ambassador for Cyber Affairs and Critical Technology, Dr Toby Feakin, is to discuss possible avenues of assistance.

Was the training already happening prior to that?

**Mr Brazier:** There was ongoing contact in this area, and cooperation. But, as I understand it, the offer being made via Australia's Ambassador for Cyber Affairs and Critical Technology, Dr Feakin, has been to increase and intensify that cooperation.



**Senator GALLAGHER:** As yet, though, it remains unclear what concrete assistance—that was 25 January, so it was three or so weeks ago. We don't know what that is yet?

**Mr Brazier:** I know that Dr Feakin has been in direct contact with the government of Ukraine in recent weeks. In the course of this hearing, or in speaking directly with DFAT, you may be able to get further specifics on that.

**Senator GALLAGHER:** But there hasn't been a further announcement? I haven't been able to see anything from the foreign minister after her comments on 25 January to suggest that any decision has been taken with regard to that foreshadowed assistance.

**Mr Brazier:** I'm not aware of a further announcement by the foreign minister.

**Senator GALLAGHER:** You're not aware. Minister, it doesn't appear that there is any decision or assistance that follows on from that commitment by the foreign minister as of yet.

**Senator Birmingham:** To the initial question you asked on this stream with Mr Brazier, I want to just make clear again at the outset that the government have been unequivocal in terms of our public, private and diplomatic support for Ukraine's sovereignty and the need to respect its territorial borders, and in urging Russia to de-escalate tensions by engaging in all diplomatic discussions and by withdrawing the build-up of troops that have amassed upon the Ukrainian border.

As Mr Brazier has indicated, there's been some longer-term—from, at least, last year; aspects of it probably go back further, in terms of different elements of cooperation—cooperation with Ukraine, some of it over that last year, specific to those areas of countering cyberinterference and strengthening training or the like in those areas, which is the type of practical thing that Australia can do, in terms of how that has scaled or changed following that particular statement of the foreign minister. If we have some extra information that we can bring to light, we will. They would be operational elements of those different agencies. It doesn't look like they're in the briefings PM&C have at the table right now but we can try to get that operational information.

Obviously, the foreign minister and the Prime Minister continue to be engaged in a number of different global discussions about the potential scenarios around the Ukraine. We have been clear that Australia would not be committing troops to action in the Ukraine in that type of response but that our responses would be strong and that we are looking at questions of further sanctions or other activity. Australia already has a range of sanctions in place with Russia. We would be working with counterparts to make sure that in the type of action they have made clear Russia would face, were it to breach the Ukrainian border, Australia would be acting in concert with those international partners around any of that.

I can advise that the foreign minister spoke with her Ukrainian counterpart on 19 January. That may be the statement you were referring to.

**Senator GALLAGHER:** 19th?

**Senator Birmingham:** Yes. The foreign minister discussed Ukraine with Quad partners on 11 February; with many counterparts across Europe, during a visit to Europe in December of last year; and during the AUKMIN discussions that took place in Australia during January. They're just a few examples of some of those ministerial level engagements, and DFAT could go into more detail about some of those.

**Senator GALLAGHER:** Just to track back a bit, Mr Brazier, how is it that PM&C would not be aware of either what the foreign minister said or if, indeed, commitments had been made for further assistance? That was for both your responses there.

**Senator Birmingham:** No, in fairness, there's an operational-level question there. If we already have work around training and support in response to cyberattacks or the like that's in place, if there's a scaling up, a change or pivot or development, in addition to that there's a degree of operational activity there. We can get those briefings around exactly how that has scaled or developed further; it's just not something that either of us have in the briefing packs at the table.

**Senator GALLAGHER:** The issues facing Ukraine are extremely topical, and I note that the Prime Minister has talked about a 'coalition of autocracies' that are destabilising the world. Yet the evidence we're hearing is that there isn't a priority to provide any practical assistance other than what was being provided for the last 12 months. We know and the Australian government knows there are 130,000 troops on the Ukrainian border. So I'm just a bit surprised that PM&C isn't aware of any practical assistance that's been provided to Ukraine, considering where we are right now.

**Senator Birmingham:** That's not fair, Senator, because Mr Brazier has—

**Senator GALLAGHER:** Well, that's my question.

**Senator Birmingham:** in fact talked through practical assistance. It hasn't just materialised in the last few weeks, but, indeed, dates back over the last year.

**Senator GALLAGHER:** He advised the committee that there's been some cybersecurity training in place for the last 12 months, and then I've asked the question: on 25 January, the foreign minister said publicly, in the media, there were discussions underway between the ambassador for cyberaffairs and the Ukrainian government; what has happened since then? The answer from both you and Mr Brazier is you don't know, and I'm asking: how can that possibly be the case when you are representing the Prime Minister?

**Senator Birmingham:** Because the exact detail, Senator, of how many officials are engaging in what training or what specific cybersecurity matters would be held by the relevant agencies, but I'm happy for us to go and get that. Over and above that level of practical support for Ukrainian officials, the principal element of Australia's diplomatic response is about trying to ensure there is a united front for deterrence against Russia taking further incursions into Ukraine. That united front for deterrence is about making sure that we, together with other partners and allies, particularly across the democratic world, particularly those throughout Western Europe with proximity to Ukraine, are clear that we're all speaking with one voice about the type of response that would occur if Russia were to breach the Ukrainian border, and that the sanctions and actions that would be pursued in support of Ukraine and against Russia would be as comprehensive as possible. There are, no doubt, practical steps that many nations are taking with Ukraine at present. Australia is seeking to play our part through that type of cybertraining, but the most important deterrence elements are about building as united a global coalition as possible to deter Russia from taking those types of acts against Ukraine.

**Senator GALLAGHER:** I find it a little unbelievable that the international division of PM&C isn't able—one says that they're not aware of what the foreign minister is saying on foreign policy, particularly on a matter as sensitive as Ukraine. And, secondly—

**Senator Birmingham:** That's not what officials said, Senator.

**Senator GALLAGHER:** can't provide an update to the committee on what practical assistance, that I have heard the foreign minister and the Prime Minister refer to, there is, or if indeed there has been anything. Putting aside the training that predates this current crisis in Ukraine, what actions or what assistance has the Australian government provided to Ukraine?

**Senator Birmingham:** Maybe put aside the training that has been provided. It's an important demonstration of practical assistance, sitting alongside—

**Senator GALLAGHER:** But it predates the foreign minister's commitments.

**Senator Birmingham:** the wide diplomatic effort that's been undertaken. I would expect the foreign minister's commitments to carry through, Senator, in that it is a pillar upon which they're being built. You can't put aside any aspect of support there. The key pillar of support beyond those practical elements is that diplomatic support as a united deterrence factor that I spoke about before. We will seek to get whatever additional detail around practical assistance we can to provide you with, noting that there may be constraints upon what we can share in that regard. Obviously, cyberdefences are important and sensitive, so the granularity of what information might be able to be provided might be limited, but I'm happy for us to seek to get that from departments and to provide that during the day. All of the other agencies and departments are available this week to provide that sort of granularity, but we'll get what we can for you.

**Senator GALLAGHER:** Does the international division of PM&C brief the Prime Minister on Ukraine?

**Mr Brazier:** Yes, it does.

**Senator GALLAGHER:** And, in those briefings, do you draw from other agencies about information that they have?

**Mr Brazier:** Yes, we do.

**Senator GALLAGHER:** So presumably, if Australia were providing avenues of assistance as foreshadowed by the foreign minister on 25 January, that would come through the briefing process to the Prime Minister?

**Mr Brazier:** Yes.

**Senator GALLAGHER:** As part of briefing the Prime Minister, you would know from your collection of information whether additional assistance had been provided.

**Mr Brazier:** Yes.

**Senator GALLAGHER:** Because you would have to tell him.

**Mr Brazier:** That's right, and he has been briefed that Dr Feakin has been in touch with the Ukrainian government with proposals to intensify that cooperation around cybersecurity. Australia has a very strong reputation in that field, and it's a capability that Ukraine is seeking to develop to defend itself. Through that period of earlier contact on the subject, I understand the government of Ukraine held high regard for what Australia was able to offer and wanted to intensify that. We will be able to provide you with the operational details of that cooperation today.

**Senator GALLAGHER:** So you haven't as yet briefed the Prime Minister on the operational details of what that intensification might look like?

**Mr Brazier:** I won't go to the exact contents of briefing by the department for the Prime Minister.

**Senator GALLAGHER:** But it seems like you don't know. That's the point I'm making—you don't know what the operational proposals around the intensification are, because, if you knew them, you'd be able to tell us today. So presumably you haven't got to that point?

**Senator Birmingham:** Firstly, let's be pretty clear that tensions around Ukraine don't relate just to the period since the recent build-up of troops along the border with Russia. Ukraine has been subject to various threats, from Russia in particular, over a long period, and cybersecurity threats have been very significant amongst those activities. Australia's support for Ukraine is manifested in the broader diplomatic effort and is also given practical effect by virtue of that cooperation from last year around cybersecurity and training, demonstrating very clearly that we are willing to act as well as provide diplomatic support. As Mr Brazier has indicated, since the foreign minister's engagement and statements that you've asked about, there have been discussions with Ukraine about what other support can be undertaken. What Mr Brazier doesn't have to hand at present, and what may be sensitive in terms of what can be provided, is what Ukraine has accepted in that regard and what actions are underway. But, as we have indicated, if there is more we can provide, we will.

**CHAIR:** Senator Gallagher, you've had the call for over half an hour now, and I have some government senators with questions for the international division on AUKUS that we will need to get to before lunch, because we lose one of witnesses then.

**Senator GALLAGHER:** To finish off that line of questioning, over the past three weeks—from the date that the foreign minister made the comments publicly that you were engaging with the Ukrainian government around possible avenues of assistance to today—there hasn't been any public comment around what that additional assistance might be.

**Senator Birmingham:** Not to my knowledge, but that would not be unusual either. We wouldn't ordinarily publicly go through the detail of sensitive defence or security assistance being provided between nations, particularly at a time of such sensitivity, as is the case, along the Ukrainian border.

**Senator GALLAGHER:** How many times has the National Security Committee of Cabinet discussed the situation in Ukraine?

**Senator Birmingham:** I don't think it would be practice for us to go through, chapter and verse, discussions—

**Senator GALLAGHER:** I'm not asking for discussions.

**Senator Birmingham:** of cabinet committees or, indeed, the different agenda items of cabinet committees. But I can assure you that NSC has been briefed, and briefed on multiple occasions.

**Senator GALLAGHER:** And it's meeting regularly, is it?

**Senator Birmingham:** NSC always meets regularly, has been my experience. And, yes, it is.

**Senator GALLAGHER:** Has the Prime Minister had any direct discussions with the President of Ukraine?

**Mr Brazier:** Not to my knowledge.

**Senator GALLAGHER:** Not to your knowledge. And you would know?

**Mr Brazier:** We've not provided any briefing to support a discussion between the Prime Minister and President Zelenskyy. As Minister Birmingham noted earlier, the foreign minister met her Ukrainian counterpart, foreign minister Dmytro Kuleba, in Europe on 19 January.

**Senator GALLAGHER:** The foreign minister met the Ukrainian foreign minister on 19 January. Why has the Prime Minister not picked up the phone to the President of Ukraine, considering the situation Ukraine is in at the moment?

**Senator Birmingham:** I think you should, perhaps, contemplate that question from the position of President Zelenskyy and the Ukraine government as well. There is no shortage of pressures in their system at present. Australia, through our foreign minister, our ambassador, our public statements and our engagement with partners

and allies, has continued to make our position very clear and our support for Ukraine's sovereignty and independence very clear, and our opposition to autocracies like Russia engaging in the way they are through the troop build-up. I am sure that if President Zelenskyy wished to engage with leaders in our part of the world Prime Minister Morrison would be very happy to have that engagement. But what we are doing is seeking to make sure we provide maximum support to the efforts of partners and allies, and those efforts are being led by those who have closer ties and, particularly, closer geographical proximity to this issue.

**Senator GALLAGHER:** Your evidence then is that President Zelenskyy hasn't requested a phone call from the Australian Prime Minister, or he's busy—

**Senator Birmingham:** I am sure President Zelenskyy is very busy.

**Senator GALLAGHER:** Yes. But the build-up has been happening for months, and your evidence today is that the Australian Prime Minister, who's certainly made clear in media interviews his desire to stand with and support Ukraine, hasn't actually picked up the phone and offered Australia's assistance.

**Senator Birmingham:** Australia's communications to the Ukraine have been very, very clear in terms of our support for them. The Prime Minister has been continuously engaged in this matter through briefings from his department; through NSC briefings, as I acknowledged before, involving Defence and DFAT officials; through his direct dialogue with the foreign minister, in particular, who has been engaged directly with Ukraine's foreign minister; and, of course, through the work of agencies and the ambassador on the ground.

As I said before, we are making sure we play our role as a very close partner and ally of many nations that are working closely with the Ukraine, whose leaders are routinely in touch with the Ukrainian leadership. If—heaven forbid—this situation were occurring in our part of the world, involving an autocracy and a challenged border, I would expect that our Prime Minister would be speaking with other allies on a daily or more frequent basis, but maybe that wouldn't include the Ukrainian President, who might simply send their support by other means.

**Senator GALLAGHER:** I'll just finish up.

**CHAIR:** Thank you, Senator Gallagher.

**Senator GALLAGHER:** Can you advise the committee on whether Mr Morrison has spoken directly, made calls, to foreign leaders to discuss the situation in Ukraine specifically?

**Senator Birmingham:** The Prime Minister has discussed the situation in the Ukraine with other leaders, including most recently when he met with the Quad foreign ministers just last week. We can get further details. He's had those discussions with leaders in the EU and we're happy to get some of that detail.

**Senator GALLAGHER:** Leaders in the EU but you're not sure? I understand the Quad meeting went on last week, but have there been calls to President Biden, President Macron, Chancellor Scholz or any others? You would know, wouldn't you, Mr Brazier, if there had been calls? That's your area; you would provide advice and a brief for the Prime Minister?

**Mr Brazier:** Yes, that's right. In terms of recent telephone calls with international leaders, there have been numerous ones with European leaders. As to whether they all featured discussion of the Ukraine, I couldn't speak to the detail because we don't typically release the contents of the Prime Minister's discussions with foreign leaders, but I can have a list for you of the—

**Senator GALLAGHER:** That would be useful. But you're not aware of any calls on the Ukraine to President Biden, Macron or Chancellor Scholz. You would know that, wouldn't you?

**Mr Brazier:** Generally, that's true. We have not provided briefings to support phone calls with those leaders in recent weeks. But, as I said, I can take on notice the full list of possibly relevant calls.

**Senator GALLAGHER:** Okay, thank you.

**CHAIR:** Thank you, Senator Gallagher. Senator Paterson, you have the call.

**Senator PATERSON:** I have some questions about the AUKUS agreement. Are the right officials at the table for AUKUS?

**Ms Foster:** Mr Dewar is online.

**Senator PATERSON:** Excellent. What was the rationale for Australia to acquire nuclear propelled submarines with the assistance of the United States and the United Kingdom?

**Mr Dewar:** The rationale behind the decision to acquire nuclear powered submarines was that government had assessed that conventionally powered submarines wouldn't be able to meet Australia's operational needs, going forward, and a nuclear powered submarine, with its greater range, stealth and other capabilities, would be better able to do that.

**Senator PATERSON:** What are the strategic advantages of modern nuclear powered submarine technology?

**Mr Dewar:** It goes to that range and stealth manoeuvrability, which are the key characteristics that nuclear powered submarines have. That was behind the decision to pursue that, in cooperation with the United States and the United Kingdom.

**Senator PATERSON:** Can you unpack that with a little bit more detail, please, about the advantages of range and stealth of a nuclear powered submarine compared to a conventional diesel or electric submarine?

**Mr Dewar:** Sure, of course. I will note that, for details about submarine capability, I would defer to colleagues at defence who are submariners. The key difference is that conventionally powered submarines need to surface from time to time to recharge batteries by running diesel engines, whereas nuclear powered submarines can continue operating underwater for a longer period of time, therefore maintaining the key attribute of stealth. I think that is really the key driver in the capability behind the assessment about the preference for nuclear powered submarines.

**Senator PATERSON:** In terms of range am I right in understanding that a nuclear powered submarine has virtually unlimited range, particularly the newer nuclear powered submarines that use highly enriched uranium?

**Mr Dewar:** Yes, my understanding is that range limits are not about the boat; it's about feeding crews and those sorts of things that become the challenges the longer you remain underwater. But they are basically unlimited in terms of the physical range for all intents and purposes.

**Senator PATERSON:** Some of Australia's strategic adversaries have disingenuously raised nuclear non-proliferation as an issue in relation to Australia acquiring this capability. What are the Australian government's intentions to continue to comply with our international obligations on non-proliferation?

**Mr Dewar:** The government has been absolutely crystal clear, as have our US and UK partners, that Australia remains absolutely committed to nuclear non-proliferation and the international nuclear non-proliferation regime. So as we move forward with the acquisition of nuclear powered submarines we'll be making sure that we are complying with all of the requirements, and indeed seeking to strengthen that regime, moving forward. Everyone is absolutely crystal clear that Australia has no intention to acquire nuclear weapons or allow the diversion of any nuclear material that might risk that.

**Senator PATERSON:** How will Australia's decision to acquire nuclear powered submarines impact the Australian shipbuilding industry?

**Mr Dewar:** The nuclear powered submarines will be a massive industrial undertaking moving forward. Australian industry's role in the submarines will be incredibly important going forward. These are likely to be bigger submarines and it will be a long-term project so there will be plenty of opportunity going forward for Australian industry.

**Senator PATERSON:** Can you talk a little bit about the non-submarine aspects of the AUKUS agreement—for example, precision guided munitions, cybersecurity, quantum artificial intelligence and some of the other elements of the agreement?

**Mr Dewar:** When the leaders announced AUKUS on 16 September, in addition to the nuclear powered submarines, cooperation on advanced capabilities was also noted. There were four key areas that are going to be pursued initially: artificial intelligence, quantum, cyber and underwater capabilities. The idea is that the three partners working together, rather than working in parallel, can get a greater capability and maintain our technology edge by working together in those sorts of areas moving forward. That's the intent of that stream of work.

**Senator PATERSON:** Am I also right in understanding that Australia intends to acquire the capability to domestically produce our own precision guided missiles as part of this agreement?

**Mr Dewar:** The work on precision guided missiles—I'd refer you to Defence for the details of that. AUKUS at this stage is focused, on the advanced capability side, on those key areas that I mentioned. However, any of those areas, for example AI or quantum, could be of direct relevance to any one of a number of capabilities moving forward.

**Senator PATERSON:** You talked about undersea capabilities. Does that potentially include autonomous undersea capabilities in the future?

**Mr Dewar:** We're still working through that. By undersea capabilities, that covers a wide range of things. It could be underwater sensors, it could be autonomous vehicles—it could be a range of other things. It's really about working out where in that scope the three partners can best work together to get the best capability and

technology outcome and something that would take us forward more quickly than otherwise we might do with individual efforts.

**Senator PATERSON:** Thank you very much. I'll look forward to pursuing this further with Defence.

**Senator AYRES:** Mr Dewar, can you tell me when the Naval Shipbuilding Enterprise Governance Committee was established?

**Mr Dewar:** I don't have that date immediately in front of me, and I don't want to take up too much time flicking through papers—

**Senator AYRES:** Perhaps Mr Brazier or another official might come back to me a little bit later with that date, then. But the title and the announcement seem to suggest that that committee was going to be concerned with submarines and frigates at the very least. Is that right?

**Mr Dewar:** The mechanisms such as the secretary's committee on naval shipbuilding enterprise and the Naval Shipbuilding Coordination Group do look at the breadth of—

**Senator AYRES:** Sorry—let me just get these down. There's the Naval Shipbuilding Enterprise Governance Committee. What were the other two groups?

**Mr Dewar:** There's a Secretary's Committee on Australia's National Naval Shipbuilding Enterprise.

**Senator AYRES:** And what was the other one?

**Mr Dewar:** There's a Naval Shipbuilding Coordination Group.

**Senator AYRES:** Is the Naval Shipbuilding Enterprise Governance Committee concerned with both submarines and frigates?

**Mr Dewar:** The governance committee that you're talking about—I've got the Naval Shipbuilding Coordination Group and that secretary's committee. The governance committee—is that the Defence one you were talking about, I'm wondering?

**Senator AYRES:** This is the committee that the Prime Minister chairs.

**Senator Birmingham:** This is a subcommittee, Senator Ayres.

**Senator AYRES:** Yes.

**Senator Birmingham:** There's obviously the National Security Committee. There is the Naval Shipbuilding Enterprise Governance Committee. And yes, Senator Ayres, it is engaged on those large naval shipbuilding projects, as per its title, and particularly brings together ministers with responsibility in areas such as skills and training and so on so that it is able to take a broader perspective around some of the delivery issues. NSC obviously retains the strategic aspects of consideration and there is also the National Security Investment Committee, which I chair, which assesses certain defence procurement and related decisions at a slightly less strategic level, we'll say, given that the Prime Minister is chairing those other ones.

**Senator AYRES:** So, submarines and frigates at the very least, and perhaps other naval projects as necessary. Mr Greene, I think, on the ABC said that it was established because the government was concerned that major defence projects were going off the rails. Is that right?

**Senator Birmingham:** I wouldn't characterise it that way. It wouldn't be the only time that I would not necessarily characterise it the same way as the ABC, as much as I have respect for Mr Greene as a reporter. But it was established, as I indicated—and I don't have the full membership in front of me, but I think it brings the training minister—

**Senator AYRES:** You're on the committee?

**Senator Birmingham:** Yes, I am. It brings the training minister, the industry minister and so on to the table. NSC is responsible for strategic decisions such as AUKUS and such as of course the decision to engage in the procurement of nuclear powered submarines. When it comes to the ultimate decision of what model of nuclear powered submarine Australia is procuring and the arrangements around that, they, again, will be NSC and cabinet-level discussions and decisions, but the enterprise governance committee goes more to the delivery of those contracts that have already been entered into and making sure that the skills, Australian industry content procurement partnerships and all of those different elements that are necessary to make that delivery a success have a reporting mechanism into government and that, in particular, those departments and ministers who don't sit on NSC but are important in terms of the industrial delivery and skills delivery of those projects are at the table for those discussions.

**Senator AYRES:** The Prime Minister chairs it. Does this mean the Prime Minister is actually going to take responsibility for the delivery of these projects on time and on budget?

**Senator Birmingham:** The Prime Minister made the decision to establish the enterprise governance committee and to bring those additional ministers to the table of those elements of the defence procurement conversation and did so because he is demonstrating leadership in making sure that those projects, which are massive and complicated in their delivery, have the type of dedicated focus that's necessary. So it's not the only place where updates on those projects occur. They are also featured at other cabinet committees and, as Mr Dewar was talking about, then there's a range of more operational and departmental-level briefings and structures that exist.

**Senator AYRES:** Is Professor Winter still contracted as the Prime Minister's special adviser on naval shipbuilding?

**Senator Birmingham:** I can't recall the exact title, but, yes, Professor Winter is still engaged.

**Senator AYRES:** I think the department previously told us that it's a \$1½ million contract. Can you tell me what Professor Winter does?

**Senator Birmingham:** I was going to make the high-level observation before throwing to you, Mr Dewar, that Professor Winter participates in some of those cabinet committee processes that you were just asking about. In the NSEGC, he does so on a routine basis, but he's also engaged in a range of other ways in terms of the advice that is provided to Defence and government more generally. But Mr Dewar can probably add to that with greater specificity than I've got to hand.

**Mr Dewar:** Professor Winter—we use him to draw on his full breadth of expertise to provide advice that we can feed into government consideration of the broader naval shipbuilding enterprise. It covers the whole breadth of the enterprise, including those issues that Senator Birmingham was talking about in terms of workforce and training and other issues as well.

**Senator AYRES:** Is Professor Winter contracted exclusively to the Australian government? Does he do work for others?

**Mr Dewar:** I'm not aware of whether he does other work for other governments, but I know he is contracted, of course, to the Australian government.

**Senator AYRES:** Is there anybody else in a position to answer that question? What's the process for managing—

**Senator BIRMINGHAM:** Professor Winter does not work exclusively for the Australian government. I can't speak for his other contractual arrangements, be they be commercial enterprises or otherwise, but I'm sure we can get some details, if you wish, around the type of conflict-of-interest requirements that are part of the contractual arrangements with Professor Winter, which I suspect is where your question is leading to.

**Senator AYRES:** Shouldn't you know, though, if he works for other foreign governments?

**Senator Birmingham:** Your question was: is he exclusive to the Australian government? My answer was no. That doesn't mean he's working for other foreign governments, but I know he has other contractual—they may be academic, commercial or other—undertakings.

**Senator AYRES:** Would you know if he was contracted to other foreign governments? And what's the process for managing that kind of conflict?

**Senator Birmingham:** I'm confident that there are conflict-of-interest conditions within his contract or terms of engagement.

**Senator AYRES:** Can anybody tell me? I understand you're confident that they're there. Can anybody tell me if they are there and what the regime is for managing potential conflicts of interest that may arise?

**Mr Dewar:** Yes, Professor Winter is required to declare potential or perceived conflicts of interest and then we would manage that through the conflict-of-interest policy and procedures that apply for any contract in PM&C.

**Senator AYRES:** On notice, can you set out for me precisely what the conflict-of-interest requirements are that apply to this contract? I have a couple of questions about submarines. How much, Minister Birmingham, has the Turnbull and Morrison government spent on the abandoned French submarine contract to date? I only ask you because you're in the position of being the finance minister as well, so I assume you can tell us how much has been spent thus far?

**Senator Birmingham:** The government announced at the time of the AUKUS decision that around \$2 billion had been committed to the diesel powered submarine procurement process. Obviously it went through as—

**Senator AYRES:** Sorry to interrupt, but, when you say 'committed', do you mean expended?

**Senator Birmingham:** Yes.

**Senator AYRES:** It was a bit more than \$2 billion, wasn't it?

**Senator Birmingham:** I thought at the time the figure detailed was around \$2 billion. The contractual negotiations for finalisation with Naval Group, Lockheed Martin and Laing O'Rourke through Australian Naval Infrastructure have been progressing. I'm confident that not all of those sign-offs have been completed in the negotiations with each of those parties to the diesel powered submarine program, so I don't think there is a final figure there.

**Senator AYRES:** What's the likely final figure?

**Senator Birmingham:** I wouldn't want to speculate on the likely final figure there because there are still commercial negotiations with the contracting parties. It would not be helpful to those commercial negotiations for me to give a speculative assessment.

**Senator AYRES:** So there is \$2 billion out the door already on zero submarines and additional expenditure in the hundreds of millions, billions? How much money at the end of this process will the Australian government have spent acquiring no submarines?

**Senator Birmingham:** It's an invitation by another means for me to speculate and I'm not going to entertain the speculation process.

**Senator AYRES:** You can't tell us?

**Senator Birmingham:** Defence and ANI have put on record, where they can, further iterative information around those negotiations. The point I would make is that it would have been reckless, given the advice we had received about the capability challenges the diesel-powered submarines would have faced in the future, for us to proceed further down that path. It would equally have been negligent for us not to take the decision, given the changed opportunity that existed for the procurement of nuclear-powered submarines, for us to make that change. So, yes, we can all wish that the potential for technology sharing on nuclear powered submarines had existed several years ago but it wasn't there several years ago. It is there now. There was a gateway clause in the contract with Naval Group that enabled us to make this decision now, so it was certainly the right and proper thing to make that decision and to ensure that, notwithstanding the pain in those costs, we are able to get the best possible capability for the future, which has now become available.

Lastly, I would also note that not all aspects of expenditure incurred to date will be sunk costs. There will be some areas of infrastructure, some areas of skills development that will continue to contribute to now the nuclear submarine program and/or to other naval shipbuilding programs.

**Senator AYRES:** But Mr Morrison can't be entirely reckless about public accountability here either—billions of dollars out the door. You can't tell me, and the Prime Minister can't say, or won't say, how much money has been expended on this project thus far for no submarines. I hear what you say: not all of this money has been wasted, but many billions of dollars have been. I understand the policy rationale that's been set out at the time of the announcement, but that doesn't mean that the government can be reckless about accountability on this question. We're almost at an election, and you can't tell us how much money has been expended or is likely to be expended in total.

**Senator Birmingham:** From the very moment we made the announcement, we've acknowledged that the incurred expenditure on the Attack class was going to be more than \$2 billion. That, on anyone's terms, is a very significant sum of money. We don't shy away from that one iota. We got on with pursuing the Attack class program, having inherited no decisions around submarine procurement as a government. So, despite some years of talking about getting the next generation of submarines, we inherited a situation where no decisions had been taken. We went through the best possible process for determining what type of capability would be right for Australia for the future in terms of what was available to us and what Australia could manage, and that yielded the result of the Attack class submarine being procured through Naval Group.

What changed, subsequent to that, was, of course, the regional environment: the analysis around where those submarines would be able to safely operate. And perhaps, most significantly, what changed was the willingness of the US and UK to share technology around nuclear-powered submarines that they had not previously been willing to share and the evolution of technology around those nuclear powered submarines that enables us to have confidence that we don't need to build a civil nuclear industry in Australia to operate—

**Senator AYRES:** Minister, I'm not asking about the policy rationale—

**Senator Birmingham:** No, but Senator Ayres—



**Senator AYRES:** I'm asking: why isn't the government being clear with this committee and the Australian people about what the likely cost is? We all understand the policy rationale—

**Senator Birmingham:** Senator, I don't think—

**Senator AYRES:** You've said it about three or four times—

**Senator Birmingham:** I don't think we've been remotely evasive—

**CHAIR:** Senators, let's not shout over each other!

**Senator Birmingham:** I don't think we have been remotely evasive there. As at 30 November, the figure was \$2.4 billion.

**Senator AYRES:** Yes, I thought so, but you can't tell me what the government has agreed to—

**Senator Birmingham:** I can't tell you the final rounding out of that in relation to those last aspects of negotiations with Naval Group, Lockheed Martin or Laing O'Rourke and contractors. We don't shy away from the fact that it's a significant sum of money. We acknowledged that on day one, when we said it would be more than \$2 billion, but we think it would have been reckless and negligent not to make the change that was made in the national interest.

**Senator AYRES:** So, an 18-month time line to identify what's described as the optimal pathway. Is Professor Winter engaged in the optimal pathway process?

**Senator Birmingham:** I'll let Mr Dewar speak on how that intersection with the taskforce that's been established is occurring with external advisers.

**Senator AYRES:** Thanks, Mr Dewar.

**Mr Dewar:** The task force in Defence, led by Vice Admiral Mead, is leading the work to define that optimal pathway, working with the United States and the United Kingdom of course. Professor Winter in his advisory role is engaging from time to time with the breadth of the naval shipbuilding work in Defence, and that includes discussions with the nuclear-powered-submarine task force.

**Senator AYRES:** You can't tell me which other foreign governments he contracts to? Can you tell us? You can't tell me now?

**Mr Dewar:** What I can tell you is that he's required to declare any perceived or potential conflicts of interest to us, and then we manage that through the normal policy.

**Senator AYRES:** I'd like to know a bit later in the day whether this is an actual or potential issue, and if you can tell us whether or not Professor Winter is engaged in contract work for other governments around the world. I understand you're going at 12.30 pm. Perhaps Mr Brazier might be able to furnish us with those details later.

**Mr Dewar:** We may not be able to get that over the course of the next hour or two. I just don't know if we can get it in that time frame.

**Senator AYRES:** But the government must know.

**Mr Dewar:** That's what I'm saying. We can look at the conflict of interest. I would point out that Professor Winter holds, of course, high-level security clearances—

**Senator AYRES:** Of course.

**Mr Dewar:** and therefore is able to have access to the information. As a senior professional, a former Secretary of the Navy, we rely on not only his compliance with our conflict-of-interest policy but his input and skill in his contributions to the oversight of naval shipbuilding in Australia.

**Senator AYRES:** We're five months into the 18 months that were identified to demonstrate the optimal pathway. Is everything on track? Can you tell the parliament if this will be delivered within the 18-month timetable?

**Senator Birmingham:** The government's confident that it will be. As Vice Admiral Mead has indicated to parliamentary committees that he's appeared before, he is working to the government's mandate and time frame, and that includes the ambition of trying to proceed and progress matters as quickly as possible. On 9 February the Exchange of Nuclear Propulsion Information Agreement entered into force, which is a critical building block in the work of the task force in enabling the different parties to be able to share all of the necessary information for the task force to make its recommendations.

**Senator AYRES:** There are two dangers here, aren't there? You say you're confident the 18-month timetable will be delivered. We won't know for 13 months—10 months after the election. This process could run overtime. How can we be confident that it won't be rushed?

**Senator Birmingham:** Your question—

**Senator AYRES:** Announcements bundled out the door.

**Senator Birmingham:** almost frames the answer. How can we be confident it won't run too late? How can we be confident it won't be rushed? Through discussions with the parties, framed 18 months, with a degree of confidence, that the work could be undertaken in that time frame. All the parties to the AUKUS agreement, the US, the UK and us, recognise the importance of speed in making decisions and proceeding onto the next steps, so that we can achieve the earliest possible delivery of capability of those nuclear-powered submarines. But, equally, there is the need against that speed paradigm to make sure that relevant issues are considered, which is why the task force has been established to look at the different streams: be they nuclear-stewardship streams; capability streams of the different boats that are options; or questions around infrastructure onsite for the building and sustainment of them elsewhere.

**Senator AYRES:** There is another project, future frigates, that the Naval Shipbuilding Enterprise Governance Committee of cabinet is overseeing, which the Prime Minister chairs. The truth is that the start of construction was delayed from 2020 to 2024. The first frigate was supposed to enter into service in the late 2020s, but now it's not even going to be ready. It's going to achieve initial operational capability—that is, not fully commissioned—in 2031. The last of these frigates will arrive six years late. This project is hopelessly behind schedule, isn't it?

**Senator Birmingham:** The government has made decisions around the commencement of construction there, to have greater confidence that all design aspects will be finalised in a timely way for optimal delivery. It's a project that has been impacted. The Hunter class is built off the platform of the Type 26 in the UK. It's acknowledged that through the UK there have been COVID related delays to finalisation of that project there. We've had to take the—

**Senator AYRES:** You're not blaming COVID for a six-year delay in this—

**Senator Birmingham:** I don't accept that characterisation, Senator Ayres, in terms of that sort of time line you're talking about.

**Senator AYRES:** What have I said that's wrong? The commencement date, according to the last announcement, and we'll come to what's actually going to happen—the gap between what the government says in Defence and what it actually delivers—has been moved back from 2020 to 2024—

**Senator Birmingham:** I'm not going to take too many lectures from you on that, Senator Ayres.

**Senator AYRES:** The first frigate won't be in the water until 2031 and the delivery of the final frigate is six years over schedule.

**Senator Birmingham:** I don't know where you're getting that six-year figure from.

**Senator AYRES:** It was supposed to be delivered in 2038 and now won't enter service until 2044. My crude maths gets me six years.

**Senator Birmingham:** I'm not accepting the premise of the dates and time lines you're talking about without going back and checking them, because they don't sound like an accurate reflection of statements to me. I don't have, chapter and verse, those time lines in front of me. I'd note, again, your party was a government that didn't manage to start and finish any shipbuilds.

**Senator AYRES:** Come on, look—

**CHAIR:** Senator Ayres.

**Senator Birmingham:** We have now seen the offshore patrol vessels start to roll off and we are going through this process—

**Senator AYRES:** This is just extended rhetorical hot air. We've got a limited amount of time with Mr Dewar.

**CHAIR:** Is that a point of order, Senator Ayres?

**Senator AYRES:** Yes, it is. We've got a limited amount of time with Mr Dewar. I would like the minister to answer the questions rather than drift off into what turns into a sort of extended monologue on some of these questions. It's the case, Minister, isn't it, that the commencement and the conclusion of this project have significantly blown out, in terms of their time?

**Senator Birmingham:** There have absolutely been delays in relation to the commencement, as there have been from the Type 26 program in the UK, and that has impacts in terms of delivery schedules. I don't accept the types of impacts that you're claiming.

**Senator AYRES:** But the Prime Minister is the chair of this subcommittee. When will construction of the Hunter class frigates actually begin?

**Senator Birmingham:** Mr Dewar may have that precise date. Prototyping is underway and continuing, in terms of the expected construction of the first.

**Mr Dewar:** The construction of ship 1 will commence in June 2024. Prototyping is already underway.

**Senator AYRES:** So June 2024, and when will the first of this class of nine frigates enter service?

**Mr Dewar:** I don't have that figure in front of me at the moment. I'll ask if a colleague might be able to assist there.

**Senator AYRES:** It seems like the kind of thing that the Prime Minister should know.

**Senator Birmingham:** Smart-arse comments won't get you anywhere, Senator Ayres.

**Senator AYRES:** I have a few more questions on this issue.

**CHAIR:** I do want to pass the call around as well, Senator Ayres.

**Senator AYRES:** I understand there are questions about schedule, but Mr Packham set out a Defence engineering assessment in the *Australian* a few weeks ago that said the frigates would be slower and have a shorter range than intended, would be more vulnerable to detection by enemy vessels and could be less safe for crews. He said:

Australia's new \$45bn Hunter-class frigates will be "substantially" slower, have a shorter range than originally intended, and could be vulnerable to detection by enemy vessels ...

The Defence assessment warns:

... the ships could also be less safe for crews, with the potential for sailors to become trapped below deck by floodwaters in "credible damage conditions".

Mr Morrison is chair of the committee of cabinet that oversees these projects. What's gone wrong?

**Senator Birmingham:** The Hunter class frigates are built off the Type 26 platform from the UK. They have a number of similarities to that UK procurement and the Canadian procurement. There have been delays related to COVID. There are other design issues that government continue to work through in terms of the elements of modification that are required in Australia. Defence undertake, as is prudent, a range of different scenario plans for these projects to ascertain where government need to focus to minimise risks to programs.

They're complicated programs, Senator Ayres. Nobody should expect that they don't come with significant risks; of course they do. But the risks that we are seeking to address—we do so with the UK and with BAE Systems.

The type of quotes that were in Mr Packham's story were of the nature of that sort of Defence internal assessment about various risk management areas. The response of government in terms of design response and planning response to all of that is well underway. No doubt, there would be other scenarios that present much lower risk than what some of those statements suggest. Mr Dewar might want to add to—

**Senator AYRES:** Mr Packham's not wrong about those risks, is he?

**Senator Birmingham:** There are lots of different risks in major procurement contracts in major shipbuilding exercises, and any such project would come with significant risks. The test is how you respond to those risks. In terms of the delayed commencement to construction that you were asking about before, that is one of the responses to those risks. Government took a decision, in making sure the design and the confidence in design were as well developed as possible, that it was prudent to delay the commencement of construction and have a longer period of prototyping so that we would minimise those risks and have them addressed before we got to the final construction.

**Senator AYRES:** But this government chose the design. This government has had responsibility for stewardship of the procurement program all the way through. Mr Morrison's now chairing this committee. That seems to indicate that he, at least when the announcement was made, was taking responsibility for getting on top of these projects. Now, some months later, it's everybody else's fault but Mr Morrison's.

**Senator Birmingham:** No. Let me make a slightly broader point around this. I can remember—

**Senator AYRES:** The point is about taking responsibility.

**CHAIR:** Senator Ayres, please allow the minister to make his response.

**Senator Birmingham:** You're making a political point. Your question wasn't a question of detail; it was a politically charged question, so please allow me to respond. I can remember the years of build around the Collins class. Senator Patrick knows all about that, chapter and verse. I can remember the years of debate around delays with the Collins class, the difficulties around how many boats were in the water at any one period of time, around

the challenge of sustainment and so on. Much of that was politically charged commentary, and much of it was an unfair reflection on what was a supreme technical and engineering undertaking by Australian governments at the time. I give credit to the Labor governments that commenced that program and established it in Australia, just as I give credit to the work around the air warfare destroyers and so on that the Howard government established. Much work had to be done to address some of those issues. But anybody who comes in and pretends that any one of these procurement activities is simply a smooth, seamless, risk-free exercise is just operating in a false environment and showing a great degree of pretence in their commentary. Each one of these major undertakings comes with significant risks and significant challenges. We've faced them before, and we've overcome them before, in terms of what has been built in Australia. Rather than trying to talk down Australia's capability to deliver these sorts of projects, I'd rather see us talk up Australia's capability and the fact that, despite the difficulties and delays that previous shipbuilding or submarine construction exercises have undertaken, we've overcome those and we have highly capable naval equipment built in Australia as a result of that. We will work through the risks on the projects that are underway, and those risks will be there whoever is in government, and we ought to be big enough to acknowledge that.

**Senator PATRICK:** I would point out that the Mortimer review and the Kinnaird review did suggest lessons from Collins and other programs. We ought to embark on programs that are generally off the shelf, and we haven't done that, Minister, which leads to the sorts of problems that Senator Ayres was talking about.

I just want to go back to the questions that Senator Gallagher was asking about Ukraine. I got a reasonable brief on what was asked, so I'll avoid some of those questions. I want to know what the Department of the Prime Minister and Cabinet's role is in planning and coordinating an Australian government response to the Ukraine crisis.

**Mr Brazier:** Thank you, Senator Patrick. As is always the case, the role of the department is to ensure coordination across the public service and that there is a flow of advice to the Prime Minister directly from the Department of the Prime Minister and Cabinet, and from other parts of the system, to support decision-making in relation to Ukraine.

**Senator PATRICK:** Has a whole-of-government task force been established?

**Mr Brazier:** DFAT has convened an interdepartmental committee that has met on numerous occasions.

**Senator PATRICK:** Are they taking the lead in this particular instance?

**Mr Brazier:** DFAT is chairing that committee. The Department of the Prime Minister and Cabinet is attending it.

**Senator PATRICK:** Has PM&C looked at or participated in the whole-of-government analysis of the effect of this conflict on our energy costs and, in particular, things like LNG? My understanding was there were conversations about our LNG being diverted to Europe. Obviously, we have a very tight market and we are affected by international prices. We want to give Australian companies advantages, making sure they've got stable energy prices. What's the government's position in relation to energy or LNG costs in circumstances where a conflict does go ahead?

**Senator Birmingham:** There have certainly been some discussions and briefings in Treasury, and in resource and energy in particular, looking at some of the potential consequential impacts of different scenarios that could occur out of the environment in Ukraine. Most of Australia's gas supplies already go into export markets through significant LNG. They're commercial contracts, and most of that gas is already commercially contracted. There may be scope for some producers to scale up production or, under their contracts, divert certain production, if necessary, but as to whether it would be viable for Australian supply, we're also clearly looking at far greater distances for the types of countries you're talking about. It is also a commodity that requires a different type of infrastructure. Most of Europe receives its gas supplies through natural gas pipelines; LNG requires port infrastructure and so on to essentially deliquefy it at the other end.

**Senator PATRICK:** Are you suggesting that we won't end up with a situation where that very limited supply of Australian gas, noting much of it is tied up in fixed contracts, will end up going to Europe? My concern is what the government is doing to make sure that if there is an invasion we don't end up with our manufacturers and our consumers paying exorbitant prices for our own gas.

**Senator Birmingham:** The commitments and engagements the government's had over a number of years now, to try to provide security of gas supply in Australia and to have downward pressure on prices in Australia, probably means that we are better prepared than might otherwise be the case. If we hadn't faced some of these questions over recent years, you would simply have a full market environment in operation that hadn't had the type of engagements to secure commitments from Australian domestic gas producers to supply the Australian gas

market. Our full expectation is that the producers who have made commitments to prime ministers, treasurers and government over the years continue to honour those commitments first and foremost to security of supply in the Australian market. Obviously there's then the medium- to longer-term picture, which the government has pursued in terms of bringing further supply on through support for other gas reservations and projects around Australia. They become ever more important if we are looking at a situation where there are potentially longstanding sanctions in place against Russia that cut Russian gas supply off from parts of the world. You're then not just looking at the short-term consideration of whether Australia's current production can be scaled up or diverted elsewhere but the possibility that Australian reservations and growth in production in Australia could support the market elsewhere.

**Senator PATRICK:** My concern here is that in the short term, sadly, we could have a situation where there's a conflict next week.

**Senator Birmingham:** Yes.

**Senator PATRICK:** The ADGSM under the legislation really can't be dealt with until January next year. That's our one mechanism for pulling the trigger on exports. You haven't implemented a reservation policy, which was something Minister Taylor announced in 2019. Are there force majeure options available to the government in circumstances where there is a conflict and a tightening of supply and Australian companies end up suffering because of the conflict?

**Senator Birmingham:** There may always be those sorts of extreme options available. They would need to be weighed against constitutional advice around confiscation of property and those sorts of considerations as well.

**Senator PATRICK:** I think the gas actually belongs to the Australian public.

**Senator Birmingham:** First and foremost, the gas does, but obviously licences are held for its extraction, and those licences are contracted in different ways. I don't envisage a situation where we would be getting to that type of extreme outcome given the commitments and cooperation government has managed to have with Australia's gas producers over the last few years to address the concerns that were more manifest a couple of years ago about potential shortages in the Australian domestic market and to ensure that there's been an increase in production in the domestic market. I don't have the statistics in front of me about how gas production for domestic purposes has changed in that time, but we developed some break-glass policy mechanisms in case they became necessary. But they have not become necessary on the basis that Australia's gas producers have worked with government and industry. Our full expectation would be that they will continue to do that and to give priority to their domestic obligations.

**Senator PATRICK:** Again, I'm not worried about supply. We saw in 2013-14 when the ADGSM was introduced that supply was fixed, but because supply is tight the price still remains high. I'll move on just to a final area I wanted to understand in relation to our response. Has the government given any thought and has the government got any plans in relation to a potential refugee situation in the Ukraine?

**Senator Birmingham:** Certainly Mr Brazier went through situations involving Australian citizens in the Ukraine. There has been some consideration to other humanitarian or migration factors that could flow. I don't know that I can say there is a widespread undertaking in relation to a refugee circumstance the like of which you raise, but I have no doubt that, were that to become the case, we would engage with obviously our European counterparts on those issues. They clearly would be at the forefront of any policy responses there.

**Senator PATRICK:** I'm just thinking of looking forward—rather than being in a situation where this sort of event arises and there's a mass exodus of people across borders—with Australia being able to proactively step up with a plan to at least assist in an international context.

**Senator Birmingham:** We have done that in a range of conflict situations in terms of creating in some cases dedicated places within our existing humanitarian intake and providing in some circumstances additional places over and above that humanitarian intake. We would obviously consider any requests or demands to do so, dependent upon the circumstances as they evolved. Our focus and our preference is for diplomacy to prevail and for conflict to be avoided and to apply maximum pressure in that regard, but Mr Brazier looks like he may have something to add to my comments.

**Mr Brazier:** Whatever refugee crisis is caused by possible Russian action will depend on events, and some of the high-side forecasts are very sobering—in the millions of people that could be affected. Typically Australia over many decades now has worked through closely with the United Nations High Commissioner on Refugees and intergovernmental organisations like the IOM. Once there are refugees gathering in neighbouring countries there is a process of registration, assessment of refugee status and then resettlement to Australia within parameters

decided on by government. That is usually something that is conducted in very close consultation with other refugee-receiving countries, depending on the numbers involved.

**Senator PATRICK:** I do have more questions, but not for international group.

**CHAIR:** Senator Waters, you have been waiting there very patiently.

**Senator WATERS:** I have been, but I don't have questions for international group.

**CHAIR:** That's alright, because I understand no other senators have questions for international group, so you are good to go on with another topic.

**Senator Birmingham:** Does that mean that we can let Mr Dewar go to bed?

**CHAIR:** Certainly, he can have 12 early minutes in that regard. Thank you for joining us, Mr Dewar.

**Mr Dewar:** Thank you, committee; I appreciate it.

**Senator WATERS:** Thanks, everyone. I've got some questions about PM&C's involvement in the waiver of the overpayment to Mr Chris Jose, and I will be taking this up with Finance tomorrow also. Hopefully we've got the right people here in the room. It was recently reported the Ombudsman had been critical of the Department of Finance's decision in 2020 to waive the \$41,000 debt owed by Mr Chris Jose after he was paid for his roles with both ACMA and the National Competition Council simultaneously. The report indicates that the National Competition Council raised the issue with PM&C in May of 2020 and that a teleconference was subsequently held between PM&C, Finance and Treasury. I understand that Minister Morton later signed a legal instrument confirming that the matter was a matter for Finance to determine, and obviously Finance later agreed to waive the debt, which is quite a different approach to that taken with robodebt. Can I ask why the decision was made to delegate responsibility to Finance?

**Mr Reid:** We were involved in the decision about who should be the appropriate decision-maker in this case, and the options appeared to be either the Secretary to the Treasury or the department and senior officials in Finance. Because of the potential conflict, PM&C's view was that it was appropriate that the matter be handled by the Department of Finance.

**Senator WATERS:** Was PM&C consulted again by Finance before Finance decided to waive the debt?

**Mr Reid:** We were aware Finance was intending to waive the debt, but we weren't involved in the decision-making.

**Senator WATERS:** How were you made aware?

**Mr Reid:** In writing.

**Senator WATERS:** They informed you, but did you provide any response to that?

**Mr Reid:** No.

**Senator WATERS:** Has there been any audit undertaken to ensure no other government appointed members have been overpaid?

**Mr Reid:** We have gone through appointments processes generally to ensure that this sort of thing won't happen again.

**Senator WATERS:** Sorry, you've gone through a general process to ensure this generally won't happen again. Can you give me a little more detail?

**Mr Reid:** We've been working with our cabinet division colleagues who oversight some of these appointments processes—or at least appointments that go through cabinet—to make sure that the appropriate questions are asked so that if there are people for whom this issue might arise, that is picked up in the process.

**Senator WATERS:** I'll probably ask more on notice about that. I move now to the bevy of Commonwealth Electoral Act amendments that we've seen. Since September last year we've seen 10 different bills amending the Commonwealth Electoral Act. This is a very piecemeal approach that has led to the debate being very fragmented, has made it very hard to assess the cumulative effect of the changes and has exhausted the limited resources of academics, expert submitters and advocates to review the changes. Why has the government adopted a piecemeal approach rather than a comprehensive review of our electoral laws?

**Senator Birmingham:** I contest the premise and the implications you suggest regarding the approach taken. Actually, what we have done by taking each of these issues through the parliament in individual bills is make sure it has been crystal-clear what each of those bills reform. Most of them are relatively minor or granular in nature—or many of them certainly are. Some of them, of course, also particularly respond to the unique circumstances of COVID. But, had we done so as an omnibus bill of lots of different moving parts, we would no doubt have been

criticised for the fact that it was an omnibus bill with lots of different moving parts, and that it was hard to see what the bill was trying to achieve. The precise approach that Minister Morton has taken of limiting each bill to only quite specific reforms has at least enabled each of those to be clear and for individual parties to reflect a position on them one-by-one, rather than having the position on an omnibus bill conflated amongst the various moving parts that would be within it.

**Senator WATERS:** Can you confirm that we won't see voter ID laws reintroduced?

**Senator Birmingham:** Yes.

**Senator WATERS:** Have you told Senator McGrath that?

**Senator Birmingham:** Senator McGrath, like anybody, is entitled to introduce private senators' bills. I believe that he may have done so on that matter.

**Senator WATERS:** He did.

**Senator Birmingham:** But it is not the government's intention to pursue that matter before this election.

**Senator WATERS:** Okay. So you rule out—

**Senator Birmingham:** Disappointingly, we would say. We do think that the principle of voter ID, and the models developed, provided a high degree of confidence that participation would be easy for individuals, but confidence in our electoral system would be enhanced. However, we're not proceeding with those laws before the election.

**Senator WATERS:** Okay. So you're ruling out bringing that private member's bill on, or any other government bill on, for the purpose of voter ID before the election?

**Senator Birmingham:** We are not proceeding with reforms on that before the election.

**Senator WATERS:** And after the election? Hopefully you won't be in a position to do so—pardon my commentary.

**Senator PATERSON:** That's an endorsement of the Labor Party from the Greens! What a surprise! The Labor-Greens alliance!

**Senator Birmingham:** Indeed, Senator Paterson. An astute observation there. As I just stated, it's the government's belief that voter identification can be done in a way that does not disenfranchise but does enhance confidence in the electoral system. If after the election there were an opportunity to look at those sorts of reforms, which have been recommended by multiple reports of the Joint Standing Committee on Electoral Matters, then I am sure we would do so.

**Senator WATERS:** Is anyone in the department working on laws to implement donations reform, truth in political advertising, election spending caps or any of the other big reforms that I believe the community actually wants to clean up our system?

**Senator Birmingham:** I suspect the answer for PM&C would be no, because PM&C doesn't lead carriage of electoral policy. That's a Department of Finance matter.

**Ms Foster:** That's correct.

**Senator WATERS:** Would you normally have any involvement in high-level system reform like that? I would assume you'd have some oversight.

**Senator Birmingham:** Only, I imagine, as far as general policy briefings.

**Ms Foster:** Yes.

**Senator WATERS:** Have you been engaged in any such oversight? Is any work being done to your knowledge on any of those electoral reform bigger issues?

**Ms Foster:** Not to my knowledge. I'm looking at Mr Reid.

**Mr Reid:** Sorry, I missed the list of issues. I apologise.

**Senator WATERS:** Electoral spending, donations and truth in political advertising.

**Senator Birmingham:** You directed the question as 'has the department undertaken any?' That's why the answer was 'no, this department wouldn't be'.

**Senator WATERS:** I understand.

**Senator Birmingham:** More generally, Senator Waters, the areas of Electoral Act reform that have been undertaken are reflective of those that have come to the parliament. People can have their own views around what is big, little or otherwise in terms of reforms; that's a matter of political debate, of conjecture. But in terms of

where the government has focused its attention, it has been around those matters of response to COVID for necessary electoral purposes and different operational elements of the Electoral Act, including some of the different integrity measures, which I think have included some elements of disclosures as well as part of clarification around some of those.

**Senator WATERS:** Thanks, Minister. Moving now to an integrity commission—unfortunately, we still don't have one. Were either PM&C or the PMO consulted by the Attorney-General before she announced last week that the Commonwealth Integrity Commission Bill would not be introduced before the election?

**Senator Birmingham:** Discussions around the Commonwealth Integrity Commission have been had right across government and particularly amongst senior ministers. We've been very clear that the government has finalised a model around the Commonwealth Integrity Commission. That model seeks to provide an umbrella framework that addresses the different roles of the many existing entities across the Commonwealth that are responsible for anticorruption activities. It does so through the creation of a law enforcement integrity division under a proposed CIC, and a public sector integrity division under a proposed CIC.

We've also been clear that we think it would be worse than the existing framework were Australia to end up with an integrity commission that took on some of the negative aspects of entities such as the New South Wales ICAC in terms of its operation as a public star chamber. So we've finalised preparation of a bill with several hundred pages attached to it. I understand the Prime Minister tabled that in the House of Representatives some time ago. The Attorney-General's position is reflective of the fact that if the opposition—or indeed I can invite the Greens to make the same commitment—were willing to commit to pass the model of CIC that the government has designed then we would work cooperatively to pass that as quickly as we could. But it has been clear from the public statements of the opposition and others that that wouldn't be the case, and therefore the government is not progressing with it at this stage.

**Senator WATERS:** The government well knows the criticism that the bill has been subjected to. A very good bill, I might add, that happens to have my name on it, passed two years ago. It has some strong features which experts said were the gold standard. So it's not like you can't get this done if you really want to. I'm afraid I won't take the suggestion that it's anybody else's fault or responsibility—

**Senator Birmingham:** We don't support your bill and you don't support ours. That's clear. But we've been very clear in terms of the model of integrity commission and the legislation as drafted. It was tabled in the House of Representatives some time ago. If there were parliamentary support for its passage, it would pass and come into law.

**Senator WATERS:** I'll come back to my actual question: was the PMO or PM&C consulted by the Attorney-General before she announced the government's bill would not be introduced before the election?

**Senator Birmingham:** I don't think it would be ordinary for the Attorney to consult PM&C about statements like that. The legislative program is a matter for government. But the Attorney was simply reflecting that reality that I've outlined, which is that, barring any change in position from the Labor Party or your party, there is not a pathway for its passage before the election.

**Senator WATERS:** Did the Attorney-General consult with the Prime Minister before announcing that it wouldn't be introduced before the election?

**Senator Birmingham:** I don't know; but I'm not sure that it was necessary, given that she was reflective of the position of the government, including that of the Prime Minister. As I said, if other parties want to change their position then that bill could potentially have introduction and passage. But, based on the state of public positions from Labor's two- or three-page flyer, which is their model, and their public comments about the several hundred pages of legislation in our model, that doesn't appear to be a pathway.

**Senator WATERS:** Did PM&C make submissions in relation to the latest iteration of the government's version of the bill?

**Mr Reid:** No.

**Senator WATERS:** Given that there was reporting about suggestions of—

**Senator Birmingham:** It would be unusual for a government department to make a submission to a public consultation process of that nature.

**Senator WATERS:** Yes. Everything about this is unusual, so forgive me for asking questions in estimates. Given the suggestions that a stronger version—perhaps similar to the one that Independent member for Indi Helen Haines proposes, which I might add is also very similar to the one that actually passed the Senate two years ago; it's very similar indeed—and that this was potentially proposed in a cabinet meeting by none other than a



desperate Prime Minister, is that a model that the department has been advocating for? Or is the Prime Minister just clearly very desperate and freelancing?

**Senator Birmingham:** You're asking the department to provide comment on policy advice that it may or may not give to the PM. The department provides briefings and information routinely in preparation for cabinet discussions and the like, but the government has finalised the model of a Commonwealth integrity commission that we support. That model is reflected in the legislation the Prime Minister tabled in the House of Representatives.

**Senator WATERS:** The department didn't provide any advice about alternative models to the Prime Minister?

**Mr Reid:** We've been keeping the Prime Minister's office up to date with a range of alternative models through live issue briefings and things like that.

**Senator WATERS:** When was the last time you gave one of those briefings?

**Mr Reid:** The nature of that briefing system is that it's a dynamic briefing system. I'm not sure when we last amended it.

**Senator WATERS:** I don't know what that means. I'm not familiar with that terminology.

**Mr Reid:** It's a live system, so it's iterative. I could take on notice when we last updated the system.

**Senator WATERS:** Okay. So you just put information into something that the Prime Minister accesses at his whim—is that—

**Mr Reid:** It's the method by which we generally keep the Prime Minister's office briefed through question time briefs and things like that.

**Senator WATERS:** Okay.

**Mr Reid:** But I'll take on notice when we last amended it.

**Senator WATERS:** Thank you. Chair, I'll leave it at that for the time being.

**CHAIR:** Senator O'Sullivan?

**Senator O'SULLIVAN:** I have questions about the task force and the Digital Economy Strategy. Firstly, can you tell me what issues the task force is examining as part of its work to ensure that Australia is leading a digital economy?

**Ms Dowdell:** We've been continuing to work with stakeholders on the range of the pillars that were set out under the Digital Economy Strategy in relation to what are the right foundations to support a digital economy; in relation to emerging technologies; and in relation to the growth priorities around small business adoption, the fintech sector and establishing a dynamic and emerging tech sector. We've worked within departments as well—so the announcement of the Quantum Commercialisation Hub in MYEFO last year, the development of a Quantum Strategy, as well as how we continue to lift digital skills, inclusion and the take-up of technology across the economy.

**Senator O'SULLIVAN:** Who's on the task force—not necessarily names or particular businesses but what sorts of skill sets are represented on that task force?

**Ms Dowdell:** The task force is based in Prime Minister and Cabinet. We have seven PM&C staff and five secondees from across a range of agencies. We also have a coordination committee that works with all of the departments across government on how they can contribute to the Digital Economy Strategy. We also have an expert advisory committee, which involves a range of representatives from business and academia who are active in this field who can provide advice on the developments in the digital economy and how we can support them.

**Senator O'SULLIVAN:** How are you engaging with industry? Is it through that advisory committee?

**Ms Dowdell:** That is one way. We have regular meetings of our advisory committee. We also have a range of stakeholder engagements bilaterally with industry associations, academia and individual businesses. When we're able to travel, we get to Sydney and other places to meet with businesses and those working in the sector.

**Senator O'SULLIVAN:** How are you ensuring that the policies that are developed are well designed?

**Ms Dowdell:** Through that engagement from those who are working in the sector and more broadly in the digital economy to make sure that they're meeting the needs—also through our regular policy processes, broad consultation and engagement, and drawing on ideas and input from a broad range of sectors.

**Senator O'SULLIVAN:** The task force was established several years ago—I think it was 2019. You might correct me there.

**Ms Dowdell:** That's right.

**Senator O'SULLIVAN:** Then out of that came the Digital Economy Strategy?

**Ms Dowdell:** The task force was established in November 2019 and it worked to coordinate and deliver the Digital Business Plan in October 2020 and then the Digital Economy Strategy in May last year. We've continued to work with agencies on the implementation of those measures, on the ongoing developments, and, as I said, on those measures that were announced in MYEFO.

**Senator O'SULLIVAN:** What are the elements of the Digital Economy Strategy? I think you said there were six pillars?

**Ms Dowdell:** There are three pillars. The foundations look at the infrastructure, so connectivity infrastructure and other infrastructure that's needed for a digital economy; skills and inclusion; cybersecurity, safety and trust; and systems, regulation and trade. These are the sort of core elements of our foundational focus. Then there's ensuring we have development and adoption of emerging technologies. That's supported by the Blockchain Roadmap, the AI Action Plan and what will be the Quantum Strategy—as well as the Data Strategy that was released at the end of last year. Then we have our growth priority, so small business adoption, digital government, modern industry sectors and a dynamic and emerging tech sector.

**Senator O'SULLIVAN:** Why do we need this strategy?

**Ms Dowdell:** The strategy aims not only to bring together those targeted investments to support the development of the digital economy and unlock investment in the private sector, but also to give a guiding framework for how a range of policies and actions across government contribute to Australia becoming a leading digital economy. As we've seen over the last few years, digital technologies have the opportunity to transform how business works, transform how our lives run and deliver significant benefits to Australians, and so the strategy is aiming to ensure that all of the actions the government takes are working towards that objective.

**Senator O'SULLIVAN:** Is it vital to Australia's recovery out of the COVID pandemic and the economic impacts of that? What's it doing to create jobs and improve the lives of everyday Australians?

**Ms Dowdell:** It is. As we've seen with lived experience, it's been essential for survival through the pandemic, both the number of people working from home and the number of businesses that were able to transform how they operated when lockdowns happened. We've seen a significant change there. It's in that phase and then the recovery: the growth of the tech sector and tech in our broader range of economic activity is critical to making the most of those opportunities as well as opening up new markets. Digital trade means that the barriers to entry for small businesses to be able to reach new markets within Australia and around the world are much fewer.

**Senator O'SULLIVAN:** What's the size of the Australian government's investment into—

**Senator AYRES:** Excuse me. I've sat through 10 minutes of this absorption of time now. This is an opposition forum.

**CHAIR:** That's six minutes of it, Senator Ayres!

**Senator AYRES:** I've been sitting here since nine o'clock. It is an opposition forum essentially, estimates, and one of the advantages of being a government senator is you can always get a briefing from the department if you're really interested in this kind of thing.

**Senator PATERSON:** Opposition senators get those briefings too, all the time.

**Senator AYRES:** I'm hoping, Chair, that this will come to a close shortly.

**CHAIR:** I will note your concern, Senator Ayres. I will also say that government senators have only had 12 minutes of time questioning this morning.

**Senator O'SULLIVAN:** What time did we start?

**CHAIR:** We did start at 9 am. I will let Senator O'Sullivan keep going with his questions, recognising that there are other senators who would like to seek the call, and we'll all try and be as economical as possible. Senator O'Sullivan, you have the call.

**Senator O'SULLIVAN:** Thank you. I was asking about the quantum—the amount of money—that's been invested into this strategy.

**Ms Dowdell:** Since 2020, \$2.3 billion specifically under the strategy, but there have been a range of other investments through the Cyber Security Strategy, the investment in the NBN and a range of other initiatives that also contribute to the digital economy.

**Senator O'SULLIVAN:** What is the strategy and the investment supporting small businesses; and, in particular, what impact is it having or likely to have in regional Australia?

**Ms Dowdell:** The focus on connectivity and enabling systems to build and develop businesses means that activity can be undertaken anywhere. As we've seen from working from home and the movement of population that has been enabled by digital technology, it has given some focus to regional and remote areas where people have been able to relocate and also establish businesses in those areas. So, we have a very strong focus on small business adoption, and we've seen through the pandemic the rates at which that can be taken up. Initiatives like the instant asset write-off have also allowed businesses to invest in that capital to undertake the transformation.

**Senator O'SULLIVAN:** How do we compare internationally with regard to digital transformation; and what's this strategy doing to help the government's goal for Australia to be a world-leading digital economy by 2030?

**Ms Dowdell:** There are a number of indicators—I don't have them with me—that are set out in the strategy about where Australia currently ranks. We rank quite highly in terms of use of e-commerce, which has only accelerated through the pandemic. The government has a commitment to be a top-three digital government by 2025, and we're on track there. There are a range of indicators where Australia does show existing strength, but the strategy is also to ensure that not only do we sustain that but build on it to rank higher in coming years.

**Senator O'SULLIVAN:** Previously, you mentioned that the strategy was developed in consultation with industry. What's been their reaction?

**Ms Dowdell:** It's been very positively received, but we continue to work with them to ensure that future investments meet those needs. It obviously was a starting point and will be a living strategy that will evolve over time, so, while positively received, there are always areas that they're keen for the government to invest further in.

**Senator O'SULLIVAN:** I have one more question, out of curiosity. Going on the website, or looking at the actual strategy, you lay out some points with regard to measuring the success of the strategy. One point there says, 'All businesses are born digital.' I'm familiar with the term, but how would you actually measure that? Maybe you could explain what it means first.

**Ms Dowdell:** From a government perspective, that means that you can undertake all of your activities to establish a business digitally. Can you register your business, can you obtain a licence—all of those steps that you would need to do. It's also one we're working on with business to ensure that other things like establishing a bank account or other connections you might need can all be done digitally, and you don't need to provide either hard-copy paperwork or—

**Senator O'SULLIVAN:** So it's not just for government entities; you're talking about small businesses and other entities?

**Ms Dowdell:** We are looking at the broader—yes.

**Senator WATT:** I've got some questions about the Statement of Ministerial Standards. That might be Ms Foster's area?

**Ms Foster:** Yes, it is.

**Senator WATT:** Ms Foster, you'll recall, I'm sure, the circumstances relating to the resignation of Mr Porter last year, which obviously arose from the blind trust. Am I correct that it was ultimately Mr Porter's inability to rule out a conflict of interest due to the blind nature of that trust that triggered his resignation?

**Senator Birmingham:** I think Mr Porter has a fairly comprehensive statement on the record from his perspective around his resignation, and, of course, the Prime Minister responded to that in his public remarks. As the Prime Minister said, 'the inability' for him to 'practically provide further information because of the nature of those arrangements' was a factor there. I'm just trying to glance down the transcript to highlight the relevant parts, rather than reading the whole statement to you.

**Senator WATT:** I was actually going to take you to that statement. I think that is probably the relevant part of the Prime Minister's transcript on the day that he announced former Minister Porter's resignation. Again, he said:

... the inability for him—

Mr Porter—

to be able to practically provide further information because of the nature of those arrangements—

by which I presume he meant the blind nature of those arrangements—

that would allow Minister Porter to conclusively rule out a perceived conflict.

You'll see in the next paragraph there, Minister, that the Prime Minister went on to say:

And it isn't just about actual conflicts. It is about, under the standards, for Ministers to have an obligation to avoid any perception of conflicts of interest.

I take it, then, that that means a minister must be able to rule out any perceptions of conflicts of interest to meet the ministerial standards.

**Senator Birmingham:** The Prime Minister's words are there in the transcript. The Prime Minister was clear in relation to Minister Porter's circumstances at the time and the ability to avoid perceptions created by that structure.

**Senator WATT:** It was the blind nature of former Minister Porter's trust that made him unable, to use the Prime Minister's words, 'to be able to practically provide further information that would allow Minister Porter to conclusively rule out a perceived conflict'.

**Senator Birmingham:** As the Prime Minister said earlier in that statement, he and Minister Porter had had discussions around the nature of those arrangements and what further information Minister Porter could or was willing to provide in relation to those arrangements. They came to the conclusion that inadequate extra detail was going to be provided, hence Minister Porter's resignation.

**Senator WATT:** It's a little while ago now, but this all, obviously, related to the donations that certain people had made to this blind trust for Minister Porter. I don't know if you've got the full transcript of that interview with the Prime Minister with you, but at page 3 he was asked about the donations and said:

It's a blind trust. He cannot disclose to me who those donors are.

So it would seem to me that it was the fact that Minister Porter was unable to say who the donors were, because it was a blind trust, that meant he could not rule out either an actual or perceived conflict of interest. Is that a fair interpretation?

**Senator Birmingham:** As the Prime Minister acknowledged at the top end of that transcript—and no, I don't have all the pages of Q&A with me that followed, but I've got the Prime Minister's statement—there were a number of discussions he had with Minister Porter. I can only surmise from the Prime Minister's statement that those conversations went to what additional information could, if any, be provided and clearly it was deemed inadequate.

**Senator WATT:** Do any other ministers of this government hold blind trusts?

**Senator Birmingham:** Your question there potentially moves into a different sphere, and you might want to clarify it. There are blind trusts that have commonly been used by ministers and public officials here and around the world for investment purposes over a long period of time. This was an arrangement with Minister Porter that was, as I understand it, a trust that had been established for the purposes of providing funds or donations to Minister Porter, not as an investment vehicle where a senator, member, minister or otherwise may put certain assets they hold outside of their immediate control to avoid the potential for any conflict in their decision-making.

**Senator WATT:** To take one example, Minister Robert has publicly stated that, when he returned to the ministry, he transferred his large shareholdings and other assets to a blind trust. What has Minister Robert done to demonstrate to the Prime Minister that he has no conflicts of interest?

**Senator Birmingham:** Minister Robert would comply, I'm sure, with all the relevant declarations to the Prime Minister and his public declaration as a member of the House of Representatives. Mr Reid has just drawn my attention to section 2.14 of the relevant code, the Statement of Ministerial Standards, that says:

Where a situation arises of the kind referred to in paragraph 2.13—

Which relates to possible shareholdings that could present a conflict of interest or a perceived conflict in a minister's duties—

the Minister shall make appropriate arrangements to ensure that any conflict of interest is avoided. Those arrangements may include:

(i) referral of the decision making responsibility is passed to the senior Minister or a Minister nominated by the Prime Minister;

(ii) divestment of the shareholding;

(iii) establishment of a Blind Trust; or

(iv) such other arrangement which to the satisfaction of the Prime Minister, on the advice of the Secretary of the Department of the Prime Minister and Cabinet, avoids the possibility of a conflict of interest.

So the code reflects the role of blind trusts as a potential management vehicle for interests that a senator or member serving as a minister may hold. That's long been the case; it has been used by many ministers over a longish period of time to manage such issues. I think some of the greatest attention to that was around former Prime Minister and former Minister Turnbull, as to how he structured some of his holdings at the time.

**Senator WATT:** Essentially, what you're saying is that the way Minister Robert has sought to avoid conflicts of interest is by establishing a blind trust?

**Senator Birmingham:** I don't have Minister Robert's declarations in front of me, but you were the one who quoted him before so I'll take your quote at face value, risky though that can be.

**Senator WATT:** I'm happy to provide you with copies of his declaration if that's of assistance. You read from paragraphs 2.13 and 2.14 of the Statement of Ministerial Standards. I'm not sure if you've got paragraph 2.15 there as well, but, if a blind trust is the method chosen by a minister to avoid conflicts of interest, it says:

2.15. For the purposes of paragraph 2.14 a Blind Trust will require appropriate legal and accounting certification. In cases where a reasonable apprehension of a conflict of interest arises based on the initial composition of the assets held by the trust, a Minister must:

(i) declare any interests to the Cabinet and to the Prime Minister as necessary; and

(ii) absent themselves from Cabinet consideration or make arrangements for decisionmaking to be passed to another Minister selected by the Prime Minister.

What did Minister Robert do when establishing his blind trust to ensure that he complied with that requirement from the Statement of Ministerial Standards?

**Senator Birmingham:** Unless somebody else at the table has specifics, I'll have to take that on notice.

**Senator WATT:** Is it helpful if I table Minister Robert's register of interests?

**Senator Birmingham:** I don't know whether that would be helpful or not, but you're free to do so. It's a document on the public record.

**Senator WATT:** Ms Foster, were you or your officers involved in the processing or administration—whatever the right word would be—of Minister Robert's blind trust when he came back into the ministry?

**Ms Foster:** We provide advice on all statements of ministerial interests to the Prime Minister for the consideration of the Governance Committee of cabinet.

**Senator WATT:** So PM&C did provide advice to the Prime Minister and the Governance Committee of cabinet regarding Minister Robert's blind trust arrangements?

**Ms Foster:** I'm being careful in the way I answer, because the advice that we prepare is in the context of the Governance Committee of cabinet. What I can say is that we provide information on all statements of interest from ministers to the Prime Minister.

**Senator WATT:** Right. Well, as I said, Minister Robert made no secret of his establishment of a blind trust when he returned to the ministry and he effectively made clear that that was how he felt he would comply with the Statement of Ministerial Standards. So it would be reasonable to assume that something went to the governance committee of cabinet. You can't disclose—

**Ms Foster:** I think you can draw that assumption.

**Senator WATT:** Okay. So what—

**Senator Birmingham:** And, obviously, Minister Robert publicly referenced that.

**Senator WATT:** Yes.

**Senator Birmingham:** He has declared it in his House of Representatives declaration. So he's been perfectly transparent about those arrangements, just as he is about his Australian coin collection and a couple of Yamaha motorbikes that I see he's declared too. But I am confident that Minister Robert has met the standards of the ministerial requirements on the basis that he's clearly gone through all of those undertakings and, in terms of his entry into the ministry, has established a blind trust, as is provided for under the ministerial standards.

**Senator WATT:** Leaving aside any advice that may have been provided to the Governance Committee of cabinet, can you—whether now or on notice—advise us of the dates of any advice PM&C provided to the Prime Minister or his office regarding Minister Robert's establishment of a blind trust?

**Ms Foster:** We can take that on notice.

**Senator WATT:** Thank you. And did the Prime Minister or his office discuss this matter with PM&C?

**Ms Foster:** Again, I'd have to take that on notice. In the course of preparing our advice, which, obviously, canvases all ministers, it would not be unusual for us to have a process where we ask questions and seek more information. So it's not unusual for there to be an iterative process.

**Senator WATT:** Okay. Minister, could you please take on notice whether Minister Robert discussed this matter with either the Prime Minister or his office prior to cabinet consideration of the matter?

**Senator Birmingham:** Sorry? Prior to cabinet consideration of—

**Senator WATT:** Of the establishment of his blind trust. What I'm asking is whether Minister Robert discussed this with the PM or his office.

**Senator Birmingham:** Ms Foster has been clear there are certain things that would be prepared in the routine course of business for the governance committee of cabinet to ensure compliance with the statement of expectations for ministers and in terms of those declarations that are made. Let's not conflate that into 'there was a discussion of cabinet about Minister Robert's blind trust,' which is what your question seeks to do. If Minister Robert has followed, as I am confident he has, all of the relevant requirements and expectations in what he has declared, as he has to the House of Reps, as he's made clear publicly, then there would likely have been no need for such a discussion. But in so far as were there any discussions with the PM or otherwise, if there is some information to provide there, I'll happily provide it. You're obviously free to put on notice whatever questions you want.

**Senator WATT:** Sure. Ms Foster, at any point, did Minister Robert disclose the name of this blind trust?

**Ms Foster:** I'd have to take that level of detail on notice.

**Senator WATT:** At any point did he disclose the identity of his trustee?

**Ms Foster:** Again, I'd have to take that on notice.

**Senator WATT:** The reason I ask about that is because the way Minister Robert has disclosed his trust is quite different to how other members who have trusts disclosed theirs. You referred to former prime minister Mr Turnbull and Minister Dutton as two examples. They hold family trusts, which are disclosed in their register of interests, with the name of the trust and the identity of the trustee. But in contrast, if you look at Minister Robert's disclosure, in the section where you disclose trusts, he says 'not applicable'. The only area in which he discloses the existence of this trust is in the item regarding 'other income'. So I'm curious as to why other members of parliament who holds trusts disclose the name of the trust and the identity of the trustee but Minister Robert appears to have hidden this. My question again is whether Minister Robert has disclosed the name of the trust or the identity of his trustee.

**Senator Birmingham:** In the public House of Representatives declaration, which I've been able to pull up, he does disclose it both as an asset and as a source of additional income. It's not only disclosed in relation to the additional income section; it is disclosed as an asset. Obviously, it's a matter for the House of Representatives whether they require additional levels of detail around such disclosures, but I am not aware that's been raised in the House of Representatives committees at all. I'm sure Minister Robert would respond if it has. For the other matters that you raised, if the officials have anything to add they can do so. But I don't want the suggestion to stand that he's only declared it as a source of income; he has definitely declared it as an asset as well.

**Senator WATT:** He hasn't declared the name of the trust or the identity of the trustee as an asset, and that is different to what other members have done.

**Senator Birmingham:** As I said, that's a matter for the House of Representatives relevant committee as to whether they require further information. But to my knowledge, they have not requested any further information.

**Senator WATT:** Again, my question is, which you will take on notice, if minister Robert has disclosed the name of his trust or the identity of his trustee.

**Ms Foster:** That's correct. We have that.

**Senator WATT:** Going back to the Statement of Ministerial Standards, you referred to paragraph 2.14, which says 'where an initial composition of interests held by a trust give rise to a conflict, additional steps must be taken by the Prime Minister and a minister'. Did Minister Robert declare the initial composition of his trust?

**Senator Birmingham:** Were you quoting from 2.14?

**Senator WATT:** Sorry, 2.15. Again, 2.14 deals with potential conflicts of interests of ministers, and instructs ministers to make appropriate arrangements to avoid conflicts. They may include a range of things, including the establishment of a blind trust. Section 2.15 deals specifically with situations where a minister chooses a blind trust to avoid those conflicts of interest. It says: 'In cases where a reasonable apprehension of a conflict of interest arises based on the initial composition of the assets held by the trust, a Minister must' do certain things.

**Senator Birmingham:** My understanding is Minister Robert met all the requirements of the ministerial code. If there's anything to add to that, I will bring that back to the committee.

**Senator WATT:** I know you say you're confident he's complied with the ministerial code, but I'm interested in getting an answer to my question: did Minister Robert declare the initial composition of his trust, as would seem to be required under the Statement of Ministerial Standards?

**Senator Birmingham:** I understand the question. My understanding is he's complied with all requirements. If there is anything to add to that, I will bring it back.

**Senator WATT:** What additional steps did Minister Robert take to avoid conflicts arising by virtue of his blind trust?

**Senator Birmingham:** That's a potentially hypothetical question.

**Senator WATT:** It's not; he either took additional steps or he didn't.

**Senator Birmingham:** No, because the composition of it may mean there's no area of conflict in his duties, particularly dependent upon what the initial composition of it was and discussions that ensued from there. Once established, the point of a blind trust is he doesn't have line of sight over decisions that are made around his investments.

**Senator WATT:** The reason this matters is that, at the time of the creation of his blind trust, Minister Robert and family investments, family trusts, that he held had significant shareholdings in property companies, mining companies, health companies, biotechnology companies, transport companies. So I don't think it takes a rocket scientist to realise that, depending what he did with those interests, that would potentially generate conflicts of interest if those shareholdings were simply transferred to a trust.

**Senator Birmingham:** Minister Robert is the Minister for Employment and Skills. He's been acting in the education portfolio. If there were specific decisions he was undertaking, then of course there would be a responsibility to be mindful of any of those potential conflicts. There are the general deliberations of cabinet. Every member of our cabinet, as with every member of your shadow cabinet, will have shareholdings through superannuation investments and otherwise in resources companies and in a range of telecommunications and banking and financial and other sectors, so we need to be cautious about where you seek to draw the line in those regards. But in terms of the specific questions you have asked, as I said, if there are further particular issues to bring back to the committee, I will bring them back in terms of his establishment and handling of that.

**Senator WATT:** To help you out, the Statement of Ministerial Standards at paragraph 2.15 actually says what a minister must do if there is a reasonable apprehension of a conflict of interest arising from their blind trust. What they must do to comply with the standards is, firstly, declare any interest to the cabinet and the Prime Minister as necessary, and, secondly, absent themselves from cabinet to consideration or make arrangements for decision-making to be passed to another minister selected by the Prime Minister. Has Minister Robert done either of those things that are required under the standards?

**Senator Birmingham:** You're now leaping to suggest that there is some area of conflict in regards to any decision-making that the minister's engaged in without actually describing what you think that may be.

**Senator WATT:** Well, I'll tell you. Immediately before Minister Robert established his blind trust, his declaration of interests in October 2018 listed extensive shareholdings, property holdings, family trusts and other assets. His next declaration of interests, when he became a minister, said that it had all been transferred to a blind trust.

**Senator Birmingham:** In accordance with the ministerial standards.

**Senator WATT:** Correct. If, the day before he sets up his blind trust, he has all sorts of shares, either directly owned or owned through trusts, and simply transfers them into a blind trust, firstly, how is that a blind trust if he knows what's in it? Secondly, and more importantly, what has he done to manage the conflicts of interest that would arise from that, if he knows that he holds shares in XYZ company or ABC company and he puts them in a blind trust? As is required by the Statement of Ministerial Standards, has he declared those interests to the cabinet and the Prime Minister as necessary, and has he absented himself from cabinet consideration or made arrangements for decision-making to be passed to another minister? If he hasn't, it would seem to me that he's in breach of the Statement of Ministerial Standards.

**Senator Birmingham:** The part that you're missing amongst that stream of thought there, Senator Watt, is the element of what it is you're alleging he has made any decision on in which there is a conflict. If Minister Robert has, as I understand, complied with all of his responsibilities under the ministerial standards he will have addressed all of the different issues on the way through there, including, as you put it, the transfer of those assets and the initial holdings of a blind trust, and he would have made sure there was sufficient confidence in those arrangements.

As I indicated before, you haven't cited shareholdings in particular training providers that Minister Robert may have made decisions about in his role as minister for skills. I note there's no such suggestion in that regard. We'll take the points you've raised; if there are concerns in relation to any of those points, I will bring it back to the committee.

**Senator WATT:** It's partly about decisions that he might have made as an individual minister, and I note that he did hold health stocks and biotech stocks. He was the Minister for Government Services, which manages contracts across government around IT and all sorts of services, so it's partly about decisions he made as an individual minister but it's also about decisions made by cabinet, that he was party to, which were of benefit to property companies, mining companies, health companies, biotech companies and transport companies, in which it would seem that he held shares. I'm asking: did he absent himself from those decisions?

**Senator Birmingham:** There is a tipping point in relation to that breadth of shareholdings. As I said before, every member of any cabinet structured in the modern era holds interests across that suite of areas, of the economy, by virtue of different superannuation holdings and the like.

**Senator WATT:** There are specific provisions for superannuation holdings in the Statement of Ministerial Standards. That's different.

**Senator Birmingham:** There are, Senator Watt. They are listed clearly in terms of what is declared. The point I'm making is, when you start to generalise whether a minister is a participant in decisions around economic policy settings, yes, we are all participants in relation to different economic policy settings. Those different economic policy settings impact upon all of our investments, as they do the investments of all Australians. It's not practical to exclude universally across that sphere, but the specifics of direct conflicts that impact directly upon different companies or different investments that individuals have are clearly set out. I don't have any suggestion from you of any particular instance where Minister Robert may not have been in compliance with those. I'm confident he has been compliant.

**Senator WATT:** Have Minister Robert or his trustee, whoever that might be, updated PM&C or the governance committee on his investments since the time he established his blind trust?

**Senator Birmingham:** It would probably defeat the purpose of the blind trust if Mr Robert were updating on the investments of the blind trust.

**Senator WATT:** I think you're right. Does that mean he didn't update the PM&C or the governance committee when he was appointed Minister for Government Services or the NDIS or when he took on the acting role as minister for education or when he changed portfolios to minister for skills, small business and other portfolios?

**Senator Birmingham:** There may be other things outside of the blind trust that have prompted an update to his statement of interests in terms of gifts, other assets, employment practices of family members or the like. If there's anything relevant to the blind trust arrangements then we can bring that back to the committee.

**Senator WATT:** How can the Prime Minister be sure that any changes that have occurred with Minister Robert's investments through his blind trust don't put him in conflict with his ministerial duties?

**Senator Birmingham:** That comes back to the fundamental point of having the option for blind trusts. That option is there so that ministers can dispose of direct knowledge, responsibility and handling of assets they may own, and invest those in another such they do not have line of sight or knowledge. That's the whole reason that those provisions have long existed and been utilised on all sides of politics at different times.

**Senator WATT:** But isn't this exactly the situation that triggered Mr Porter's resignation?

**Senator Birmingham:** No.

**Senator WATT:** What the Prime Minister said was that, because donations were made to a blind trust, and Minister Porter could not say who those donors were, it was, to use the Prime Minister's words, the inability for Mr Porter to practically provide further information, because of the blind nature of those arrangements, that prevented Minister Porter from conclusively ruling out a perceived conflict. Minister Porter couldn't say who the donors were, couldn't rule out conflicts, and had to resign because of potential conflicts of interest. Minister Robert sets up a blind trust that he doesn't disclose to name of, doesn't disclose the identity of the trustee for, doesn't know what's going on inside it and can't rule out conflicts of interests. How is that different?

**Senator Birmingham:** Are you proposing that a future Labor government, if there were one, would remove the ability for blind trusts to be used for the holding of a minister's assets?

**Senator WATT:** I haven't said that at all. What I've said is—

**Senator Birmingham:** You seem to be arguing that should be the case.



**Senator WATT:** No, what I'm arguing is the minister should comply with the standards, which requires them—

**Senator Birmingham:** The minister does comply with the standards, to all the advice I've been given.

**Senator WATT:** You don't know that. You haven't been able to assure me that Minister Robert complies with paragraph 2.15, which goes specifically to blind trusts and requires ministers to declare any interests to the cabinet and the Prime Minister, even if they're in a blind trust, and absent themselves from cabinet consideration or make arrangements for decision-making to be passed to another minister selected by the Prime Minister. You don't know if that has happened.

**Senator Birmingham:** You're seeking to engage in a general slur without suggesting there is a single decision that you're bringing into question.

**Senator WATT:** So there's no decision of cabinet that benefits mining companies, property companies, health companies, biotech companies or transport companies?

**Senator Birmingham:** That's where I'll take you back to that general point: issues that government makes decisions on for the benefit of the economy overall, benefit all ministers but also benefit all Australians. It's impractical to suggest that ministers would be absenting themselves from all of those different types of deliberations or discussions, regardless of the political origins of those ministers. I'd say the same for Labor ministers as I would for coalition ministers. The fundamental difference in relation to the scenarios you're issuing there is that one is a matter of gifts made for a range of unknown purposes, for which the ministerial standards don't provide such clear steps on how they are handled. The other is a matter of investments, for which there are longstanding practices and which the ministerial standards do provide a process for how they are handled. My advice is that Minister Robert has followed that process.

**Senator PATERSON:** Minister, I'm not sure if you're aware that an article published in the *Sydney Morning Herald* on 24 June 2007 was entitled 'Rudds' blind trust takes control of share trades'. It went on to report:

LABOR leader Kevin Rudd has set up a blind trust for his family's prolific share tradings, six months after pledging to do so.

A spokesman told The Sun-Herald Mr Rudd had finalised the trust last week and it would be registered on his parliamentary pecuniary interests file this week.

The trust will control the share dealings of Mr Rudd, his multimillionaire wife Therese Rein and adult children Jessica and Nicholas.

The family will have no say in buying and selling and will not be told about any transactions.

The move follows questions raised about the potential for multiple conflicts of interest to arise between the Rudd family's share dealings and the Labor leader's position. The potential would be greater if he became prime minister.

Last month Mr Rudd divested himself of shares in the investment company AMCIL, which owns stakes in some of the country's biggest companies.

Ms Rein's million-dollar portfolio is on Mr Rudd's pecuniary interests registers. Her PBL shares would soar if Labor in government implemented its \$4.7 billion national broadband roll-out promise.

Doesn't that article highlight, Minister, that it is a longstanding practice of governments of both political persuasions to use blind trusts to manage conflict of interests?

**Senator Birmingham:** It does highlight that, as I indicated on the way through. It is useful to have that example of Mr Rudd's holdings. I think we can say with some confidence, given the breadth of those holdings, in terms of the generalisation Senator Watt has raised about holdings in resources or financial or technology companies, that as Prime Minister it would have been impractical for Mr Rudd or Mr Turnbull at a later point to absent themselves from every area of policy consideration that may have an impact upon those sectors more generally or the economy more generally. But, of course, it is an obligation, if a minister is making a decision in relation to a specific company that will provide particular benefits to that company, that, if they are aware of having investments or holdings there, they need to manage those appropriately.

The distinction needs to be drawn between general policy settings that people like Mr Rudd and Mr Turnbull have had to manage, and other ministers who have such trust arrangements need to manage, versus those specific decisions that ministers make.

**Senator WATT:** Just to wrap up, Chair, I'm not asserting that the creation of a blind trust is a problem in itself. You're right, there are numerous members of parliament, from all sides, who have done that. What I'm trying to get answers to, is whether Minister Robert complied with the Statement of Ministerial Standards when he did establish a blind trust. With respect, Minister, you've several times said you're confident he did, you've been assured you did, but you haven't been able to tell me, in any way, what Minister Robert specifically has done

to make sure that he complies with the requirements of the standards. Obviously, you will need to come back once you get some answers on that. I'm not trying to say that the creation of a blind trust in itself is a problem. It's do you follow the rules?

**Senator Birmingham:** Thank you for that clarification, Senator Watt, because it seems like, from your penultimate question, that you were trying to create that insinuation.

**Senator WATT:** The fundamental point that I'm trying to understand is what is the difference—

**Senator Birmingham:** That's no longer your penultimate question.

**Senator WATT:** What is the difference between former Minister Porter and Minister Robert? Then Minister Porter had donations made to a blind trust. He couldn't tell the Prime Minister who they were from. He therefore could not conclusively rule out a perceived conflict, to use the Prime Minister's words, but we've got Minister Robert who says that he doesn't know what's in his blind trust. For all we know, it contains all the shares that he held immediately before he established the blind trust. How are we to know that he can conclusively rule out a perceived conflict? What's the difference between Minister Porter and Minister Robert?

**Senator Birmingham:** Because, as I said before, the processes for management of investments through blind trusts are longstanding—as Senator Paterson's question gives proof to—are well documented in ministerial standards and provide for that reassurance. There is no such equivalence in such ministerial standards history or processes for the receipt of gifts through such arrangements.

**Senator WATT:** I look forward to seeing your answers.

**CHAIR:** Thank you, Senator Watt. Senator Patrick, I will give you the call, but you only have five minutes before we're due to break for lunch, so please be economical.

**Senator PATRICK:** Sure. I've got two five-minute things here. Maybe I can come back just after lunch. I note that the department issued a new guidance on caretaking conventions. Is that as a result of the review that's taken place?

**Ms Foster:** That's something we do prior to each election. We review the caretaker guidance to make sure that it's current.

**Senator PATRICK:** How do you decide what to change? Is someone looking back at what happened last time around and adding in a change?

**Ms Foster:** I'll let Mr Reid go through the process. It's his area that actually goes through this.

**Senator PATRICK:** For example, we have the car parks report from the Auditor-General, which might otherwise require some tidying up. I don't know.

**Mr Reid:** As Ms Foster has said, it's a usual process ahead of an election period to, as you say, tidy up the guidance on the convention. In this case, we made some amendments for accessibility—formatting and things like that. The only substantive change that was made related to the ability for ministers to claim travel expenses. That change was made because the Parliamentary Business Resources Act 2017 and regulations have come into being and created a potential lack of clarity between a provision that existed in the old caretaker conventions that ministers not claim travel expenses between the time of the launch of a campaign and polling day, and the requirements in the PBR framework. In order that ministers had only one point to look at for the framework around travel expenses, we simply removed it from the conventions. That was as a result of a request by the then Special Minister of State and shadow minister of state.

**Senator PATRICK:** During the caretaker period, is there someone in PM&C who's responsible for observing conduct and making sure that the conventions are complied with?

**Ms Foster:** We have an advisory role. Mr Reid's area provides, in effect, a service that departments can call on to seek advice on how they should interpret the caretaker—

**Senator PATRICK:** If a minister makes a rogue decision—something that's not in accordance with the convention—is it the case that the department doesn't implement it? Or is it the case that PM&C do something else?

**Ms Foster:** It's a matter for each departmental secretary to manage that process, with their minister, during the caretaker process. As I said, we will provide them with advice on how we believe the convention should apply.

**Senator PATRICK:** So, if a major binding decision is made by a minister and the secretary's okay with it, then, in effect, nothing goes beyond that. Is that right?

**Ms Foster:** The secretary would have account of the caretaker convention of the guidance, and, if they were uncertain about the appropriateness of the action, then they would seek advice.

**Senator PATRICK:** If it came to the attention of PM&C that there had been a breach, would the opposition leader be briefed on it?

**Ms Foster:** The guidance is there to provide support to ministers and to their departments. The role of PM&C is, obviously, to make sure the guidance is clear and up to date and to provide support to departments. How the secretary is then—

**Senator PATRICK:** So you set the framework, but you don't do the enforcing. That's left for the secretaries.

**Senator Birmingham:** I think there is a step before a minister making a decision, which is probably the primary vehicle by which, from my experience, departments manage the caretaker arrangements. That is that departments don't put to ministers matters for decision during the caretaker period that either are not necessary or should not be undertaken during the caretaker period. If they are necessary, then, from my experience, they will come with very explicit advice around what is necessary in terms of engagement with the opposition on the next steps.

**Senator PATRICK:** Okay. I've got another topic, but would you like me to wait until after lunch, Chair?

**CHAIR:** I think that would be best. I will give you back the call after lunch.

**Proceedings suspended from 13:29 to 14:31**

**CHAIR:** The committee will now resume its examination of the Department of the Prime Minister and Cabinet. For those listening along at home and others who may be interested, I will go to Senator Patrick to continue for another five minutes. Then I understand Ms Foster has some answers to some questions that she will provide to the committee, and we'll then go to Labor senators for further questions. Senator Patrick, you have the call.

**Senator PATRICK:** Thank you very much. This could be very short. Ms Foster, does the Governor-General receive copies of cabinet minutes?

**Ms Foster:** No, Senator.

**Senator PATRICK:** When did that practice change?

**Ms Foster:** Let me just seek some advice from our cabinet area.

**Senator PATRICK:** Yes. I've got a 1969 minute from your department.

**Ms Foster:** Ms McGregor is saying we have not provided cabinet minutes since she's been in the role, for the last two or three years. So we'd have to take on notice, if that was formerly the practice, when it changed.

**Senator PATRICK:** Alright. I'll just direct you. There's a minute back on 29 July 1969. I don't expect you've read it, but it basically states the reasoning behind why this should occur: 'The Governor-General represents the Crown and Australia. Whilst undoubtedly his status is that of the regent for a constitutional monarch, there is still a monarch and his or her representative needs to be in touch with the developments of the body politic.' It goes on to suggest that it is the cabinet that makes the most important of those decisions. So it's clearly been the case in the past that governors-general are provided with cabinet minutes.

**Senator Birmingham:** Sorry, Senator Patrick—that was 1969?

**Senator PATRICK:** I don't think our constitutional monarchy has changed much since then, Minister.

**Senator Birmingham:** Whilst the constitutional monarchy itself has not, there have been changes, such as the Australia Act, that have passed since then that do change some of the nature of the engagement between Australia and the UK. I can't speak for when, between 1969 and today, the practice of sharing cabinet minutes with governors-general—if that was the case—changed. If we can ascertain that, then we're happy to do so. There would also be, possibly, a question as to what practice occurs elsewhere, not least of all in the UK itself, and whether there has been any change to practice in those time lines, but I couldn't say offhand.

**Ms Foster:** People have been scurrying around trying to see if there is anything at the moment. Certainly, it would appear that the Governor-General gets access to decisions around appointments, and there may be some other material that's made available. We'll see if we can clarify what that is.

**Senator PATRICK:** In the exercise of his prerogative power, how does he become informed? Is it just the newspapers? And God help us.

**Senator Birmingham:** That might, more rightly, be a question for the Official Secretary to the Governor-General. Obviously, the executive council process is a formal briefing process of ministers, but the Governor-General does have access to other briefings and information of government to keep them abreast of different issues.

**Senator PATRICK:** Maybe, on notice, if you could explore that issue for me a little bit better. The minute I'm referring to is one between Sir John Bunting, who was the Secretary to the Department of the Prime Minister and Cabinet, and Secretary to the Cabinet Office, between 1959 and 1968.

**Senator PATERSON:** Perhaps you could table it.

**Senator PATRICK:** I'm happy to do that. I might get you a clean copy because I scribbled all over this one.

**Senator Birmingham:** Thank you.

**CHAIR:** Thank you very much, Senator Patrick. Ms Foster, do you have responses to those questions?

**Ms Foster:** The first was the date of the creation of the Naval Shipbuilding Enterprise Governance Committee. That was November 2020. The second was the question about whether Don Winter was employed by any other government. He does make a full declaration of all other employment. He formerly had a contract with the United States government but he has no current contracts with other foreign governments. Finally, Mr Reid took on notice when the PM was last briefed on the Integrity Commission Bill. He advises that it was on 10 February this year.

**CHAIR:** Thank you very much, Ms Foster. Senator Gallagher.

**Senator GALLAGHER:** Senator Birmingham, was it you that sent a text message to Gladys Berejiklian, during the 2020 bushfires, describing the Prime Minister as 'desperate', a 'fraud' and a 'complete psycho'?

**Senator Birmingham:** As I've already said publicly, no.

**Senator GALLAGHER:** If it wasn't you, do you know who it was?

**Senator Birmingham:** No.

**Senator GALLAGHER:** Does the Prime Minister know who it was?

**Senator Birmingham:** Not to my knowledge. I note that the only information, in relation to such claims, is what's been provided by journalists.

**Senator GALLAGHER:** Ms Berejiklian told your cabinet colleague that during the bushfires the Prime Minister was 'actively spreading lies' about her and, with lives at stake, he is 'just obsessed with petty political pointscoreing'. Isn't it bad enough that the Prime Minister went on holidays to Hawaii during the bushfires? Why did he behave like this when he got back?

**Senator Birmingham:** I reject the scenario painted there and the accusations made. The question sounds like an attempt at petty political pointscoreing.

**Senator GALLAGHER:** So Ms Berejiklian, in this question, is not telling the truth. Is that what you're saying?

**Senator Birmingham:** I'm not taking any of these statements as fact, Senator Gallagher.

**Senator GALLAGHER:** So you don't believe the text messages were actual text messages?

**Senator Birmingham:** I have nothing other than public and media reporting on the matter.

**Senator GALLAGHER:** Have you ever sent a text message disparaging the Prime Minister?

**Senator Birmingham:** No.

**Senator GALLAGHER:** On 22 March last year, the Deputy Prime Minister sent a message to Ms Brittany Higgins, via a third party, saying, 'I and Scott don't get along. He is a hypocrite and a liar, from my observations, and that is over a long time. I have never trusted him and I dislike how he earnestly rearranges the truth to a lie.' What does it say about the Prime Minister that two people who know him very well—the Deputy Prime Minister and Ms Berejiklian—both describe him as a liar?

**Senator Birmingham:** I don't accept the character appraisal. The Deputy Prime Minister has addressed those matters. I was quite hoping that I might get asked about this in the Senate last week, because I was thinking that perhaps with Senators O'Neill and Keneally in the room together, for example, it would be entertaining to understand what text messages they've exchanged about one another. The same could be said about any number of different relationships across the building—

**Senator GALLAGHER:** This is the Prime Minister and the Deputy Prime Minister.

**Senator Birmingham:** Are you suggesting to me that none of the Labor caucus have ever had a bad word to say about Mr Albanese in their text messages, because I'm sure they have—

**Senator GALLAGHER:** I'm suggesting to you that a lot of people think that the Prime Minister is a liar. That's what I'm suggesting to you.

**Senator Birmingham:** And, no doubt, Senator Gallagher, the high, uplifting and positive ad campaign you will run in the election campaign will focus on such personal slurs.

**Senator GALLAGHER:** These aren't slurs from Labor; they're from the Deputy Prime Minister and a former New South Wales Liberal premier who worked closely with the Prime Minister. There's an important reason to ask about this: it goes to the character of the Prime Minister. We have a number of people, including former Prime Minister Turnbull, who said, 'Scott has always had a reputation for telling lies.' So were Mr Joyce, Ms Berejiklian and Mr Turnbull all wrong?

**CHAIR:** Senator Paterson, on a point of order?

**Senator PATERSON:** I know that Senator Gallagher has to get a YouTube or Facebook video out of today as a KPI, but I'm just wondering how this relates to the estimates of agencies or departments appearing before us. I don't think that the Prime Minister's character, to use Senator Gallagher's framing, is a budget item.

**CHAIR:** Senator Gallagher, on the point of order?

**Senator GALLAGHER:** On the point of order. This is the Prime Minister's department and these are questions that go to the character of the Prime Minister and also to the division, disunity and leaking that's going on, which go to the heart of operations of this government right at this point in time. So it is relevant to the portfolio department before us. The character of the Prime Minister and the way this government is functioning at the moment are relevant to this committee.

**CHAIR:** Senator Gallagher, you might want to consider framing your questions a little more relevantly to the budget papers in that instance, thank you.

**Senator GALLAGHER:** Senator Birmingham, are Mr Joyce, Ms Berejiklian and Mr Turnbull all wrong? Are they the ones telling lies?

**Senator Birmingham:** As I said, I don't accept every anonymous leak that is made on the public record. But, in my working career with the Prime Minister, I have found him to be very determined, very hardworking and very focused on the issues before him as Prime Minister and the issues before the nation, and very forthright and honest in his dealings.

**Senator GALLAGHER:** So why then do we have a number of people who have worked closely with him openly calling him a liar?

**Senator Birmingham:** Those are questions for individuals, insofar as any of them are confirmed. As I said, the Deputy Prime Minister has addressed those matters publicly. But I'm sure you wouldn't be suggesting that every member of the Labour caucus has only ever had nice things to say about Mr Albanese or, indeed, many of their other colleagues. I've got no doubt that there are probably some colleagues who've had some mean things to say about me at different times. I have broad enough shoulders to take that on and know that of course that is part of public life and public office. That occurs within all political parties, as well as of course across the cesspit of social media and elsewhere.

**Senator GALLAGHER:** The now Deputy Prime Minister's message to Ms Higgins was sent just after the *Four Corners* program which aired about the Brittany Higgins matter on 22 March last year. Was there a connection between his description of Mr Morrison as a serial liar and Mr Morrison's claim that he didn't know about the assault for two years?

**Senator Birmingham:** I can't mind-read what Mr Joyce, who was then on the backbench, was thinking. Mr Joyce has addressed those issues. He has apologised for them and he has spoken very clearly about the positive relationship that he has with the Prime Minister in the way they work constructively together.

**Senator GALLAGHER:** So it was just a coincidence then, do you think, that it was sent as soon as that program finished, where the Prime Minister was saying that he didn't know?

**Senator Birmingham:** I don't seek to try to read anybody's minds, least of all that of Mr Joyce.

**Senator GALLAGHER:** In the story by Mr Massola about the text message with Ms Higgins, it says—referring to the Prime Minister—'Barnaby approached me this week to inform me of these text messages.' Yet there's only been one text message printed. Were there other text messages that Mr Joyce had sent? Are you aware of any more?

**Senator Birmingham:** No, I'm not aware of Mr Joyce's text messages. He's addressed the issues publicly. As I said before, if we want to go on some grand text message expose across the parliament I suspect it would be unedifying for your side of politics and for everybody.

**Senator GALLAGHER:** This is about the Prime Minister and allegations he's a liar. I think it's in its own category, on its own, isn't it, really?

**Senator Birmingham:** You can seek to run the personal politics of these matters. We'll do our best to try to seek to focus on issues for the nation.

**Senator GALLAGHER:** I don't enjoy asking about this. This is your colleague saying this about their Prime Minister.

**Senator Birmingham:** You're making the decision to ask about these matters. Nobody's forcing you to ask.

**Senator GALLAGHER:** It goes to the heart of this government and the running of this government and the dysfunction.

**CHAIR:** Order.

**Senator Birmingham:** Nobody's forcing you to ask about these issues. And I don't think you are so naive as to think that all of your colleagues are pure and nice about one another in their text messages.

**Senator GALLAGHER:** I'm asking because it relates to the functioning of government, and the fact that this government is leaking so openly against each other, and, seemingly, wanting the whole country to know that the Prime Minister's a liar. It is, therefore, affecting whether this government is actually in a position to govern at the moment.

**Senator Birmingham:** I can tell you that the only part of my days I spend dealing with such issues is when I am forced to respond to questions about them from you or from members of the fourth estate.

**Senator GALLAGHER:** Right! Somehow I don't think that is a fair assessment. I'm sure, in the last few weeks, you have been dealing with the fallout of this, and not just in answering questions that I might have asked.

**CHAIR:** Very hypothetical.

**Senator GALLAGHER:** I cannot believe it hasn't crossed your desk.

**Senator Birmingham:** There may be other Labor colleagues, and there are definitely questions from journalists, but it has not crossed my desk.

**Senator GALLAGHER:** Right! Did the Prime Minister or his office ask Mr Joyce to hold a press conference and apologise to the Prime Minister?

**Senator Birmingham:** As Mr Joyce has made plain in his remarks, he offered his resignation to the Prime Minister, which the Prime Minister declined to accept. I think it is safe to say from that that Mr Joyce was pretty up-front in relation to his response to the issue. He's addressed that publicly in terms of the nature of the working relationship—a positive one—that he says he has with the Prime Minister. And it's positive in terms of all my observations of their engagements with each other too.

**Senator GALLAGHER:** When I asked whether you were aware of other text messages, is your evidence that you are not aware of there being other text messages?

**Senator Birmingham:** I am only aware of that which I have seen reported in the public domain and which Mr Joyce has addressed through his public remarks.

**Senator GALLAGHER:** Okay. Is the Prime Minister aware of other text messages?

**Senator Birmingham:** I imagine not.

**Senator GALLAGHER:** Have you talked about the text messages with the Prime Minister?

**Senator Birmingham:** No, I don't believe so. At least not beyond making sure that, in addressing these sorts of fora, I'm aware of the discussions that have been had. But those discussions have been revealed pretty well publicly, anyway, through Mr Joyce's statement.

**Senator GALLAGHER:** So, as a member of the senior leadership team of the government, there hasn't been any discussion of these terribly damaging text messages. Is that your evidence?

**Senator Birmingham:** That's correct. I can assure you that whether it be on matters of the Ukraine—where you started questioning today, which was a much more serious point for you to question than where you're at now—whether it be other matters of national security, whether it be elements of the COVID response, whether it be our national economic plan, that's where they have certainly focused discussions, not these matters.

**Senator GALLAGHER:** Can you please try to come back to the committee on whether there are other text messages that the Prime Minister is aware of? It's his language. It's his office commenting to the journalist, saying, 'Barnaby approached me this week to inform me of these text messages.'

**Senator Birmingham:** I am pretty confident that you're splitting hairs in regard to the language used there.

**Senator GALLAGHER:** So it should have said 'the text message', not 'these text messages'.

**Senator Birmingham:** If my recollection of the media stories is correct, there was the suggestion that there was a message from Mr Joyce to an intermediary and from the intermediary to Ms Higgins. That would constitute, by my reckoning, a plural in terms of the number of text messages.

**Senator GALLAGHER:** So will you take that on notice?

**Senator Birmingham:** No.

**Senator GALLAGHER:** You're not going to find out whether there were more messages?

**Senator Birmingham:** No. You're being ridiculous with the line of questioning.

**Senator GALLAGHER:** I'm not being ridiculous. There are hundreds of millions of dollars tied up in this government governing—supposedly. They are all matters relevant to this committee, and I don't see why you are refusing to take something on notice.

**Senator Birmingham:** If you want to ask—

**CHAIR:** I think the minister had answered the question, Senator Gallagher.

**Senator Birmingham:** If you want to ask any questions about hundreds of millions of dollars of government expenditure, then that's well and truly what I'm here for, Senator—

**Senator GALLAGHER:** Well, there's plenty that goes to supporting this dysfunctional government.

**Senator Birmingham:** That's well and truly what I'm here to address—

**Senator GALLAGHER:** Yes. There is. There's a lot. Ministerial staffers and all of the support you get—there's plenty of it. It all relates to the budget.

**Senator Birmingham:** As I said before, I know you're not so naïve as to think that there wouldn't be messages with unfavourable character assessments between members of the Labor caucus, including about Mr Albanese, at different times in the past—

**Senator GALLAGHER:** So it's all about Labor. Is that your defence for what's going on?

**Senator Birmingham:** No, it is not. I'm just highlighting the hypocrisy of your focus on this issue.

**Senator GALLAGHER:** As I said, it is your colleagues that have made it a focus. It's not anyone on this side of the table. It's the Deputy Prime Minister, former prime ministers and New South Wales's former premier—all of whom have worked with the Prime Minister—all saying the same thing. And you're sitting here going, 'There's nothing to see here.'

**Senator Birmingham:** Nobody forces you to come in here and ask hypocritical questions.

**Senator GALLAGHER:** I'm not asking hypocritical—

**Senator Birmingham:** You make that choice yourself.

**Senator GALLAGHER:** There is nothing hypocritical about this. This is—

**Senator Birmingham:** There is.

**Senator GALLAGHER:** three colleagues calling the Prime Minister of this country a liar, on top of the French president calling him a liar, on top of books being written about how many times he lies—

**CHAIR:** Senator Gallagher, is there a question?

**Senator GALLAGHER:** There's nothing hypocritical about this.

**Senator Birmingham:** I'm sure the last thing you would want to see is the character assessments and performance appraisals of Mr Albanese over the last few years, from your different colleagues, flushed out in the public arena.

**Senator GALLAGHER:** You could at least try and defend the Prime Minister, rather than just say it's all Mr Albanese's fault.

**CHAIR:** Senator Gallagher, that's not a question.

**Senator GALLAGHER:** On what day did—

**Senator Birmingham:** That's not what I'm saying, and I think I addressed pretty well upfront my relationship with the Prime Minister and the trust in him.

**Senator GALLAGHER:** On what day did the Deputy Prime Minister offer his resignation to the Prime Minister?

**Senator Birmingham:** I think that was the day before his public statement. I think he made that clear in his statement.

**Senator GALLAGHER:** So on 4 February.

**Senator Birmingham:** I don't have the exact time lines. I didn't bring the details of such petty matters with me, but I'll take your word for it on the date.

**Senator GALLAGHER:** Does Mr Morrison have the power to remove Mr Joyce as Deputy Prime Minister?

**Senator Birmingham:** As Deputy Prime Minister, yes. The Governor-General makes such appointments on the recommendation of the Prime Minister.

**Senator GALLAGHER:** But wouldn't who holds that office be a matter for the National Party, not—

**Senator Birmingham:** The National Party determines who the leader of the National Party is, but the Governor-General makes appointments to such offices on the recommendation of the Prime Minister.

**Senator GALLAGHER:** So the Prime Minister could have sacked Mr Joyce without reference to the Nationals party room. Is that correct?

**Senator Birmingham:** My understanding is that Mr Joyce offered his resignation.

**Senator GALLAGHER:** That's an answer to a different question.

**Senator Birmingham:** It's a statement of fact, actually. It's a statement of fact.

**Senator GALLAGHER:** That's fine. Is it within the power of the Prime Minister to sack the Deputy Prime Minister—the Leader of the National Party—under the coalition's power-sharing arrangements? It's a genuine question.

**Senator Birmingham:** It's a different question from the one you asked before. The Prime Minister, as I said, makes recommendations to the Governor-General around appointments to the ministry, and that includes holding the office of Deputy Prime Minister. Matters in relation to the leadership of the National Party are matters for the National Party. What happened on this occasion was that Mr Joyce offered to resign. Mr Joyce, of course, is free to resign if he wishes, and that would have consequential impacts.

**Senator GALLAGHER:** So the answer to my question, which is, 'Does the Prime Minister have the power to sack the National Deputy Prime Minister under your coalition agreement?'—does that exist?

**Senator Birmingham:** If the Prime Minister felt there was a need to remove the Deputy Prime Minister, he has that power in his commission from the Governor-General, as Prime Minister.

**Senator GALLAGHER:** So he could technically do it without reference to the National Party room?

**Senator Birmingham:** Technically such things are hypothetically possible. In this regard, the Prime Minister, as Mr Joyce made public, had a conversation with the Leader of the National Party, who offered his resignation. So the hypothetical is not the case in this regard.

**Senator GALLAGHER:** Just sticking with—

**Senator Birmingham:** The hypothetical?

**Senator GALLAGHER:** No, with text messages. On 2 November last year the *Daily Telegraph* published a text message from the President of France to the Australian Prime Minister that was sent on 16 September, two days before the AUKUS announcement. How did a newspaper get a text message sent to Mr Morrison from President Macron?

**Senator Birmingham:** I think those issues have already been addressed—

**Senator GALLAGHER:** I don't think so.

**Senator Birmingham:** including through the last round of estimates, if my memory is correct.

**Senator PATERSON:** At some length.

**Senator GALLAGHER:** Well, I didn't ask them, and I'm here to ask them again. How did a newspaper get a text message sent to Mr Morrison from President Macron?

**Senator Birmingham:** I'd refer you to the previous *Hansard* on those matters.

**Senator GALLAGHER:** If someone can provide me with that, I'll come back to it. It seems to me the only way that the newspaper could have got access to that text message was if the Prime Minister authorised the leak himself, or is there another explanation?

**Senator Birmingham:** I would refer you to the previous *Hansard* on those matters.

**Senator GALLAGHER:** So you don't want to answer a pretty straightforward question?



**Senator Birmingham:** I think they were all addressed previously and I think the most effective way to deal with those questions is to refer you to the previous *Hansard*.

**Senator GALLAGHER:** In the previous *Hansard* did you answer that specific question?

**Senator Birmingham:** I might refer you to that *Hansard*.

**Senator GALLAGHER:** Did Mr Morrison authorise the leak of a private text message to him from the President of France?

**Senator Birmingham:** I would refer you to the *Hansard* of those previous discussions.

**Senator GALLAGHER:** Okay. We'll keep going, and you can keep not defending this. When did the Department of the Prime Minister and Cabinet become aware of the leak?

**Senator Birmingham:** I'd refer you to the *Hansard* of those previous discussions.

**Senator GALLAGHER:** When did Mr Gaetjens become aware of the leak?

**Senator Birmingham:** I think that would be almost identical to the previous question.

**Senator GALLAGHER:** Did the foreign minister, Senator Payne, know Mr Morrison planned to leak President Macron's message?

**Senator Birmingham:** At that point, I think I'd broaden it out and refer you to the answers in the DFAT estimates that the foreign minister would have provided.

**Senator GALLAGHER:** The unauthorised publication of messages—

**Senator AYRES:** Sorry, Senator Gallagher. Are you saying, Minister, that this has already been dealt with in estimates and you're referring this back to that? Really?

**Senator Birmingham:** That is my recollection, I think, yes.

**Senator AYRES:** Well, the G20 was after Senate estimates. What are you talking about?

**Senator Birmingham:** I'll double-check the scheduling. I seem to recall there being a fair bit of questioning around these matters previously.

**Senator GALLAGHER:** There hasn't been.

**Senator AYRES:** You're just making it up as you go along.

**Senator GALLAGHER:** The G20 was on 30 October. Estimates was before that. I sit in this committee, and I have never heard anyone answer those questions. So could we start again, or are you just refusing to answer? Or the government could provide me with the *Hansard* where these questions have been examined.

**Senator Birmingham:** I'll double-check, Senator. It may be that what I remember answering questions about in the chamber, which I do a lot, was what I was thinking of in terms of this committee. But I seem to think that there had been some deliberations here before.

**Senator GALLAGHER:** Considering the leak happened on 2 November, which was after the supplementary estimates, I think you'll have to check your evidence, because you may have misled the Senate with some of your answers. I will start again. How did a newspaper get a text message that was sent to Mr Morrison from President Macron? You must have an answer.

**Senator Birmingham:** Senator, I don't have an answer for particular newspapers and their publications.

**Senator GALLAGHER:** Okay. So, somehow, without the government knowing—is this your evidence?—this private text message lands in the *Daily Telegraph* two days after the Prime Minister is called a liar by the French president, and you don't have an answer as to how that happened or how it appeared in that paper?

**Senator Birmingham:** Senator, there can be many different potential responses, in terms of these matters, as to with whom messages were shared at different points in time or who else was party to anything. I think the Prime Minister addressed the issues raised by President Macron fairly extensively, especially when he arrived in the UK, when he made clear that, in terms of the discussions they had had about the cancellation of the diesel-powered-submarine contract and the decision to embark upon the AUKUS arrangement, the nature of discussions that the PM had had with President Macron about the changing strategic environment in our region, the changing threat profile and the impacts on Australian defence capability decisions—

**Senator GALLAGHER:** So how did a newspaper get a text message, a private text message, to the Prime Minister from the French president? How did that happen? Who leaked it?

**Senator Birmingham:** Senator, I don't know, in terms of newspaper sources.

**Senator GALLAGHER:** Okay. So they may have just wrote it on a vibe of something. It seems to be a pretty accurate description, including what was said by the French president. Presumably, if it's a text message to the Australian Prime Minister—are we suggesting that News Limited journalists have access to the Prime Minister's text messages without authority? Is that the land we're in?

**Senator Birmingham:** No, Senator—

**Senator GALLAGHER:** Okay. So that narrows it down a little.

**Senator Birmingham:** But, as we have just been talking about on other matters, it depends on who may have been party to such messages or the like. I don't have any conclusive knowledge of how a newspaper came to have such statements. What I think has been clearly addressed by the PM is, of course, the response to what President Macron had to say, where the PM was quite clear in relation to the nature of conversations he had had with President Macron around that changing strategic environment in our region and the different capability equations for the Navy that flow from that.

**Senator GALLAGHER:** So, if we accept that News Limited aren't hacking the Prime Minister's phone and getting access to his text messages, how then would a private text message from the Prime Minister, the leader of our country, received from the leader of the French, come to appear, word for word, in a News Corp paper, if it wasn't authorised by the Prime Minister himself?

**Senator Birmingham:** As I said, Senator, I can't speak for the sources of newspapers. Obviously, it depends on who else was party to different discussions or knowledge of them. That can impact upon what those potential sources might be.

**Senator GALLAGHER:** Your first answers to my questions were that you've answered all these before. Now your answer is that you can't answer. I mean, it's a pretty serious set of circumstances, isn't it? You've got private communication between two world leaders suddenly appearing in a widely read paper in Australia two days after the French President has said Mr Morrison lied to him. It's a pretty serious set of circumstances, isn't it? All you can take from it is that the Prime Minister himself or an agent of the Prime Minister leaked correspondence between two world leaders into the press to try and take the political heat off him.

**Senator Birmingham:** There are a number of serious sets of circumstances at the heart here, perhaps the most serious being the policy issues that were being discussed, which were Australia's naval military requirements and capabilities for the future. President Macron sought to suggest that he had perhaps not been aware of or not had certain discussions with Australia or the Australian Prime Minister about the different issues that were being faced. Prime Minister Morrison made clear and outlined, in the statements that he made upon landing in the UK after President Macron's observations, the tone and nature of those discussions, in which the Prime Minister raised the issues around the changing strategic environment in our region and the impact that has in terms of the defence capabilities that we need.

We went through some of the details around AUKUS earlier today. I'm happy to go over that, and the need for that, again if required. We took a decision that was in the public interest. Was it an easy decision? No, it wasn't easy, because of the issues that Senator Ayres raised earlier—about the fact that significant sums had been spent on the diesel-powered-submarine option. But we made the decision that it would be reckless to continue with that project and not take the alternative. It wasn't an easy decision, because we knew that Naval Group and the French government would be upset by the decision that was taken. But, again, it would have been negligent to not make that decision, notwithstanding the concerns that the French government had as a result of that. The decision was taken firmly and squarely in the national interest, regardless of those difficulties—being cognisant of them but ultimately believing that, as hard a decision as it might be and as difficult as it might be on those different fronts, it was the right decision to make for Australia.

**Senator GALLAGHER:** I understand the issues that are being examined here—the broader point that you are speaking on. My questions are about the leak of the text message. We've just gone through how the Prime Minister's own colleagues think he's a liar, an absolute psycho, a fraud and a person who puts politics above people, and the only explanation that I can see—and you're not correcting me here—is that the Prime Minister authorised a leak of his private communication with another world leader. It again goes to the Prime Minister's character. Unless there's another explanation, that is all that we're left with—that the Prime Minister leaked something because he was playing domestic politics, trying to get a bit of heat off him after being called a liar by President Macron, and it appears in the *Daily Telegraph* two days later. Is that just a happy coincidence?

**Senator Birmingham:** Again, I'm not going to try to speculate on newspaper sources.

**Senator GALLAGHER:** Well, how did it get in there?

**Senator Birmingham:** The Prime Minister addressed the substantive issues raised by President Macron's comments when he landed in the UK. He went through very clearly, quite publicly, the fact that there had been exchanges, through different formats, between the Prime Minister and President Macron about the different issues that led to the AUKUS decision. Nobody pretends that there weren't hard feelings and hurt feelings as a result of that difficult decision, but we absolutely stand by the decision. As the Prime Minister has made clear, some of the factors that led to that decision, particularly around the type of naval capability Australia would or wouldn't have under different scenarios in the future, were part of the ongoing dialogue between nations.

**Senator GALLAGHER:** So we've got a journalist on the travelling party with the Prime Minister and other colleagues who just gets a scoop. How does this text message get in the *Daily Telegraph*? What is your explanation for it? Presumably, the government is concerned if text messages between world leaders are suddenly appearing in the paper. What has happened? Has there been a police investigation into this?

**Senator Birmingham:** Not to my knowledge.

**Senator GALLAGHER:** Is it a Mr Gaetjens special? Has he been called in to investigate?

**Senator Birmingham:** Not to my knowledge.

**Senator GALLAGHER:** So government just thinks, 'Oh, well. The Prime Minister's phone records appear in the *Daily Telegraph*.'

**Senator Birmingham:** The government is squarely focused on the substantive issues on this, which were the rationale for the AUKUS decision, the rationale for not proceeding with the diesel powered submarines through the French company Naval Group and the rationale for instead proceeding with a nuclear powered alternative. Yes, the government and the Prime Minister firmly and squarely responded to President Macron—

**Senator GALLAGHER:** And then leaked a text message.

**CHAIR:** Senator Gallagher!

**Senator Birmingham:** and outlined the nature of discussions between the two of them, given the comments that President Macron had made publicly.

**Senator GALLAGHER:** Was the text message leaked by the Prime Minister because he had hurt feelings—you used that term just a little while ago—about being called a liar? Was it a retaliation text-leak?

**Senator Birmingham:** I will not accept the premise of the question. When I talk about the Prime Minister's response, I'm talking very clearly about the extensive statement he made upon landing in the UK, subsequent to President Macron's public comments. The Prime Minister responded quite clearly, outlining the nature of the dialogue that had occurred.

**Senator GALLAGHER:** And the text message mysteriously popped up two days later?

**Senator Birmingham:** I can't speak to the sources of different media companies.

**Senator GALLAGHER:** Ms Foster, was Prime Minister and Cabinet asked to undertake any investigation into this leak?

**Ms Foster:** Not to my knowledge.

**Senator GALLAGHER:** You would know, wouldn't you?

**Ms Foster:** I would expect to know.

**Senator GALLAGHER:** You weren't requested by the PMO, the department of foreign affairs or any of the other security agencies who might be concerned about the Prime Minister's phone records suddenly appearing in a daily newspaper?

**Ms Foster:** No, I was not.

**Senator GALLAGHER:** So the whole of the APS is not worried about this at all! No-one in the APS thinks, 'The Prime Minister's text messages are appearing in an Australian paper; that's a bit of a worry'? Nothing? In that case, you must all know that it's from the Prime Minister and his office. Otherwise, you would imagine that every security agency across the APS would come crashing down, wanting to examine how the Prime Minister's private communications ended up in a newspaper.

**Senator Birmingham:** As I said before, I can't speak to the source of papers. As to other parties who may have had knowledge around content or otherwise of messages, what is clear is that a statement was made by the French president, and the Prime Minister responded to that statement publicly, on the record and quite comprehensively around the nature of engagements that he and the Australian government had had with President Macron and the French government.

**Senator GALLAGHER:** And, in addition to that, a private text message appears in the paper. Yes, he did those things, but then his phone records, or records of a communication, appear in the paper. The indifference from the Public Service speaks volumes, honestly. Did any agency come to PM&C and ask, 'How did this happen?' If so, what did PM&C say? Are we to believe that ASIO wasn't worried, nor any of the agencies offering advice to government, about cybersecurity or anything like that? No-one came to you?

**Ms Foster:** Senator, I said not to my knowledge. Were there something which had come through the secretary or to my government division then I would expect to know. I may not know if there were some security related concern.

**Senator GALLAGHER:** Were you surprised to see private communication from the Prime Minister in the *Daily Telegraph*? Wouldn't that have raised alarm bells for you?

**Senator Birmingham:** That's asking Ms Foster for an opinion.

**Senator GALLAGHER:** Well, she's a senior official—a deputy secretary of Prime Minister and Cabinet—and the Prime Minister's private—

**Senator Birmingham:** As you know, questions—

**Senator GALLAGHER:** communications are in the paper.

**Senator Birmingham:** of opinion are not matters for estimates.

**Senator GALLAGHER:** Okay—

**Senator AYRES:** You didn't seek an explanation, Ms Foster?

**Senator Birmingham:** I think Ms Foster has already addressed that question—the answer was no.

**Senator AYRES:** No. I'm asking if she sought an explanation.

**Ms Foster:** I didn't, Senator.

**Senator GALLAGHER:** Does Prime Minister and Cabinet agree that the ability for leaders to correspond directly and privately with each other is an important part of trusted international relationships?

**Senator Birmingham:** Again, that's seeking an opinion.

**Senator GALLAGHER:** Well, what do you think, Minister Birmingham? Do you believe that ensuring that when world leaders are communicating with each other that the communication is secure and not open to hacks or leaks? Do you think that's an important part of international diplomacy and fostering international relationships?

**Senator Birmingham:** Speaking purely on the question of principle, and in responding to your question of principle there, yes. And so too is the need for world leaders to reflect fully and honestly the context of discussions they may have with one another.

**Senator GALLAGHER:** Ah, okay. So it was a retaliation leak, based on that answer.

**CHAIR:** That's not what the minister said.

**Senator Birmingham:** In that instance, Senator, that is not at all what I said—

**Senator GALLAGHER:** Yes, it was! You're now trying to blame the French—that it was their fault the Prime Minister had no other alternative but to leak the communication.

**Senator Birmingham:** I am not making any such suggestion.

**Senator GALLAGHER:** I saw afterwards a newspaper, I think quoting the French:

Disclosing a text message exchange between heads of state or government is a pretty crude and unconventional tactic.

Do you think the leaking, or the release, of this text message has further damaged relations between Australia and France?

**Senator Birmingham:** I'll leave commentary around the status of relations to the Prime Minister and DFAT. Clearly, there are issues—as I acknowledged—following the cancellation of the Naval Group contract. But I know that the Prime Minister has been working through those issues with French officials, where possible, along with the department.

**Senator GALLAGHER:** Okay. What we've learnt so far is that there has been no request for a police investigation. PM&C aren't at all fazed by the fact of the Prime Minister's phone messages appearing in the paper. There has been no advice from security agencies raising any concerns at all. Somehow this text message just appeared in the paper—conveniently from a journalist in the travelling party with the Prime Minister. Why won't you just acknowledge that the Prime Minister leaked a text message because he was angry with President Macron? It's clearly what has happened here.

**Senator Birmingham:** You can, as always, make assertions and draw conclusions or assumptions—

**Senator GALLAGHER:** Oh, come on! Well, if it wasn't the Prime Minister there would be a police investigation, the security agencies would be all over it and PM&C would be up in arms, working out reviews and how to manage this breach of the Prime Minister's privacy and maintaining international relationships. But nobody seems to be the slightest bit bothered. What's the other explanation, then? What's the other possible explanation, other than the Prime Minister leaked it because he was angry and he felt hurt by what President Macron had said?

**Senator Birmingham:** As I have said, a few times over, I can't speak for the source of a newspaper. Obviously, those sources depend upon the range of other parties who are party to or have knowledge of different messages and communications. This issue played out publicly, as was clear. The Prime Minister responded at some length and in some detail—

**Senator GALLAGHER:** And then leaked a text message.

**Senator Birmingham:** publicly, in relation to all of the dialogue and exchanges that had been had. The government, at the time of making the announcement around AUKUS, was at pains to make clear that our rationale for that was on the changed capability equations for our Navy, that the previous decision around the diesel powered submarines would not meet the expected capability requirements of the future and that technical advancements and technology-sharing arrangements meant that a future nuclear powered option could meet those needs of the future, and that we made those decisions not as a reflection upon the work that Naval Group or the French were doing, of which considerable work had been done to address some concerns in those areas.

Subsequent to the announcement, subsequent to us making those comments, questions were raised about how much discussion there'd been around some of those contextual issues. The Prime Minister addressed that following President Macron's comments.

**Senator GALLAGHER:** So if it wasn't the Prime Minister who leaked the text messages, who did?

**Senator Birmingham:** I think we're going around in circles now.

**Senator GALLAGHER:** I'm trying to get an answer. Everyone in this room knows the Prime Minister or the Prime Minister's office leaked that text message. Everyone in the Public Service knows. The French President knows. Yet you sit here trying to pretend that nobody does know and that you can't speculate on sources. If it wasn't the Prime Minister, who was it?

**Senator Birmingham:** Well, Senator—

**Senator GALLAGHER:** What is the other explanation?

**CHAIR:** Senator Gallagher, you've asked the minister a question. Please listen to his response.

**Senator Birmingham:** I have addressed that question multiple times now, in terms of the source for newspapers being a matter for newspapers. Obviously, in the relation to messages or the like, it depends upon other parties to the message or with whom it had been shared.

**Senator GALLAGHER:** It's embarrassing, really, that we have a prime minister who's prepared to sacrifice international relations because he's got his feelings hurt. You're forced to come up here and pretend not to know how that text message got in the paper.

**CHAIR:** Is there a question, Senator Gallagher?

**Senator Birmingham:** You can make whatever observations you like. That's part of our free democracy. The point is that a substantive policy decision was made. The government had outlined the rationale for that policy decision. It was brought into question, whether or not elements of that rationale had been shared with other international counterparts. The Prime Minister responded, very clearly, in detailing the way in which it had been shared.

**Senator GALLAGHER:** Ms Foster, were you advised by the PMO not to worry about the leak of that text message?

**Ms Foster:** I was not.

**Senator GALLAGHER:** I'm trying to understand. When someone in your position or Mr Gaetjens sees an article like that in the paper, why would it not bring on further inquiries and investigations?

**Senator Birmingham:** Senator, I don't think—

**Senator GALLAGHER:** It's a question to PM&C.

**CHAIR:** Senator Gallagher, the minister's allowed to respond to the question.

**Senator Birmingham:** I don't think PM&C's day job is to be responding endlessly to what they see in the newspapers.

**Senator GALLAGHER:** A strategic leak from the Prime Minister's private phone doesn't happen every day, right? There it is. It's in the middle of an international fracas between the French and Australia. It appears in the paper. Mr Gaetjens is eating his cornflakes and goes, 'Oh, well,' in the morning. That doesn't float with me; I just don't buy it. So what happens? Are you told, 'Don't worry, we don't need to investigate this. We don't need to bring in the police. Don't worry, my phone hasn't been hacked'? Something must have happened in that space—or nothing. It's worse than I thought!

**Senator Birmingham:** It's not PM&C's job to be responding to what they see daily in the newspapers.

**Senator GALLAGHER:** Well, then, answer this question. There's an FOI request by the Guardian for the text messages, as they were leaked. They were denied the FOI on the grounds that 'disclosure of the requested documents would or could reasonably be expected to cause damage to Australia's international relations'. Was PM&C involved in handling that FOI?

**Ms Foster:** No, Senator. As you know, we provide support at an administrative level to the Prime Minister's office in the handling of FOIs, but that was a decision by a PMO decision-maker.

**Senator GALLAGHER:** You weren't involved. That FOI didn't cross your desk at all?

**Ms Foster:** It didn't cross my desk. As I said, my staff provide some administrative support, but the decisions are taken within the office.

**Senator GALLAGHER:** The PMO's response to the FOI request says:

The requested documents are communications between the Prime Minister and the head of state of a foreign government and were undertaken in confidence.

On those grounds, disclosure was not agreed to. The PMO thinks they were confidential and shouldn't be disclosed, yet, somehow, they're on the front page of a newspaper. Do you think that that is a reasonable way to conduct international diplomacy and relations, by essentially having our national leader leak communications?

**CHAIR:** That's very hypothetical, Senator Gallagher.

**Senator GALLAGHER:** Hypothetical! I think everyone in this room knows what's going on—

**CHAIR:** That's very hypothetical, also.

**Senator GALLAGHER:** Poor old Minister Birmingham is in a position where he's not able to acknowledge the reality that everyone else accepts is real: that we have a Prime Minister who had his feelings hurt, got angry and leaked a text message.

**CHAIR:** Senator Gallagher, is there a question?

**Senator GALLAGHER:** Case closed.

**Senator Birmingham:** I don't ever look for any sympathy, so you don't need to run the 'poor old'—

**Senator GALLAGHER:** Well, I do feel sorry for you, occasionally, Minister Birmingham. Because you have to come in here and cop other people's rubbish and defend it.

**Senator Birmingham:** What unfolded were, of course, debates that arose about what discussions occurred in terms of the contextual environment of the cancellation of the diesel-powered submarine contract and the decision to pursue AUKUS. Certain suggestions about an absence of communication were made. The Prime Minister responded fulsomely in relation to—

**Senator AYRES:** By leaking the text.

**Senator Birmingham:** what actually occurred in relation to the nature and context of discussions about the strategic environment driving those decisions.

**Senator GALLAGHER:** I know you're trying to shift it onto the bigger, broader policy discussion that was happening at the time, but the point I'm trying to make is, in the middle of that, we have this retaliation—in a petty way that endangers our international standing—because the Prime Minister was angry at something that had happened two days earlier. That's exactly what happened, and everyone knows it. It shows how transactional this guy is, doesn't it?

**Senator Birmingham:** You can keep describing whatever motivation or the like you want to—

**Senator GALLAGHER:** He couldn't care less about international relationships.

**Senator Birmingham:** I'm not going to be drawn on reflecting on statements of President Macron or any other such thing. What I have focused—

**Senator GALLAGHER:** Or the behaviour of our own Prime Minister?

**Senator Birmingham:** on very clearly are the facts in relation to the decisions and the contextual discussions that occurred around the AUKUS decision. The nature of those discussions has, subsequent to President Macron's comments, been addressed quite clearly by the PM.

**Senator GALLAGHER:** The whole episode reflects incredibly poorly on the Prime Minister, and, I have to say, on the Public Service as well, who have just decided there's no issue at all with this.

**Senator Birmingham:** Senator, keep the political observations for those of us in political office, please.

**Senator GALLAGHER:** I'm not making a political comment about the APS. I am shocked that the APS has not, of its own volition, had a look at this. It's an apolitical organisation. The Prime Minister's private communications were leaked to a paper. I would have thought some agencies in the APS would have raised some concerns about that. That's aside from politics. It's a function of the APS, I would have thought, to support executive government and ensure that—

**CHAIR:** Is there a question?

**Senator GALLAGHER:** I'm responding to the comment that Senator Birmingham made.

**CHAIR:** You're not here to respond to questions.

**Senator GALLAGHER:** Thank you very much for the instruction, but I was responding to an incorrect aspersion cast on my comment, which is that I would have thought the APS would have done it anyway.

**Senator Birmingham:** Senator, as I said, I don't believe it's the job of PM&C to be responding to newspaper stories. Of course, they are there, in terms of when asked, to respond in a range of different ways by government. Of course, the main function is to provide the type of policy advice and evidence and information that help lead us to decisions such as the AUKUS decision, which is at the heart of what you've been asking about, Senator. That is the most valued function that I certainly find from the Public Service, in terms of the provision of that advice and that critical information about substantive matters of state and the decisions that we have to make.

**Senator GALLAGHER:** To finish this, Ms Foster, I don't know if you have it with you, but I would appreciate a list of all the leaks that you've been asked to investigate across the APS—not any details that are going to cause any harm, but just the nature of the leak and when, and how many there have been.

**Ms Foster:** We will.

**Senator GALLAGHER:** Thank you.

**Ms Foster:** Chair, I have two corrections to make to our evidence, if now would be convenient?

**CHAIR:** That would be convenient, if Senator Gallagher's finished her questions on that one.

**Ms Foster:** The first one—clearly, I was misinformed about the Governor-General's access to cabinet minutes. In fact, he receives all cabinet minutes, including appointment minutes and most NSC minutes, and receives these in hard copy. They're typically batched up and provided after the meetings. My apologies for not knowing the correct answer when Senator Patrick asked the question.

**CHAIR:** I hope Senator Patrick is listening.

**Senator Birmingham:** I'm sure we can return to the issue, Senator Patrick, if the response from Ms Foster now precipitates something further about the Governor-General's reading habits.

**CHAIR:** Indeed.

**Ms Foster:** The second was Senator Waters's questions about Mr Jose. Mr Reid was asked earlier about PM&C's role in relation to the overpayment of Mr Jose. For clarity, PM&C's role was restricted to advising Mr Morton which entity should be responsible for pursuing or waiving the debt. We advised Mr Morton, and he agreed, that Treasury was the appropriate entity. Treasury subsequently sought Finance's agreement to waive the debt. Mr Reid was also asked whether PM&C provided any comment back to Finance when we were advised of their decision to waive the debt. He said we made no comment. For clarity, we did reply to Finance, advising them that we had no comment.

**CHAIR:** Thank you, Ms Foster. I have some questions for the Deregulation Taskforce. Am I correct in saying that the Deregulation Taskforce has only relatively recently been within PM&C?

**Mr McDonald:** That's right. The task force was started I think in July 2019 and came over to PM&C 12 months later.

**CHAIR:** Where was it before that?

**Mr McDonald:** It was in Treasury.

**CHAIR:** What was the rationale for moving it into PM&C?

**Mr McDonald:** I think the function works better in the Department of the Prime Minister and Cabinet, given the ability for PM&C to bring more agencies together to solve deregulatory and regulatory problems.

**CHAIR:** In terms of the work that has been done to date—and I think I've asked questions about this at previous estimates—where are we at with our deregulation agenda? It sounds very exciting.

**Mr McDonald:** I don't often hear that, Senator!

**CHAIR:** I'm not being sarcastic; I think small government is good government, so I'm intrigued to know what you're up to.

**Mr McDonald:** There are four deep dives running at the moment. Obviously we work to Minister Morton on these deep dives and the government sets the agenda. Those four are looking at the excise system to see whether there are impediments, regulatory barriers, that are unnecessary in the way that the excise system works, particularly alcohol and fuel. We have an overlapping-regulations regulatory agenda as well. That deep dive was one that business was particularly interested in looking at, and the overlapping regulatory problems were ones that range between the Commonwealth and the states, and local governments as well, but also across agencies. That one was taken to national cabinet last year and it was agreed by national cabinet to work on 10 priority areas. I can go through those, if you like, but they cover issues ranging from charity fundraising, working with vulnerable children, checks that businesses have raised with us and many issues that have come from business in terms of overlapping regulations. I think the groundbreaking element of that reform is the agreement with the jurisdictions to assist in working on that.

So, it's not just the Commonwealth agencies; it's the states as well. We have the automatic mutual recognition of occupational licensing deep dive, which is in the phase of implementation now, with, I think, all jurisdictions except for Queensland and Western Australia in the scheme right now, and Western Australia is expected to join on 1 July. That deep dive—again, at the direction of national cabinet—has allowed for workers with legitimate licences in one jurisdiction to work across the board in other jurisdictions. So, we have a team in the deregulation taskforce that's helping the jurisdictions in implementing that as well. I think I've missed one.

**CHAIR:** You have; you've only given me three.

**Mr McDonald:** Oh, I know: it's modernising business communications. This is a deep dive that is, again, working with business to find opportunities where we may still be relying on paper—'parchment and vellum', is I think the term that we want to see removed from legislation and regulatory practices across the country. They have a particular focus at the moment, and one that was raised again by business themselves, looking at deeds and statutory declarations and other forms of corporate agreements which are not online. Again, national cabinet's ticked off on that, and we're working through the Attorney-General's Department, and the savings from that particular reform could range up to \$400 million. One of the benefits of the dereg task force is the bottom-up process—the 'factory floor approach', I think the minister calls it—where we actually ask business what the problems are that they see. And it wasn't until we actually went and asked business what some of the biggest problems that they faced were that we actually realised that there are five million or six million statutory declarations done every year that involve paper and going off to be witnessed, and the savings from bringing those online could be up to \$400 million a year.

**CHAIR:** You say you went to business to ask them what the problems are. What did that process look like? And is it ongoing? I can't tell you the number of times small businesses in my home state come to me and say, 'This form's annoying to fill out; why do I have to do this twice?'—et cetera, et cetera. It would almost be good if there were a continual way for businesses to be able to provide that feedback to government beyond just through their elected representatives.

**Mr McDonald:** Exactly. The overlapping regulatory reform package which has been prepared through national cabinet is ongoing, and if the jurisdiction or business has other things they want to add to that then that could be considered. Minister Morton actually wrote to businesses—I think it was early or mid last year—asking for any evidence or any problems, and we did a consultation process around businesses late last year as part of that. I should say that each of the other deep dives has got quite sophisticated stakeholder engagement strategies. The modernising document execution, or Modernising Business Communications deep dive, has a group which assists them in consulting with business; the excise deep dive has conducted multiple roundtables and sought feedback from industry many times; and the automatic mutual recognition deep dive, which is now legislation, obviously went through a process of significant consultation with industry, through the normal parliamentary practices, but, before that, through roundtables and consultation papers as well.



**CHAIR:** So, with the deep dive on overlapping regulation, have we actually seen any outcomes from that yet? Have we struck out any regulations that we don't think we need to comply with any more as superfluous, or is that work still ongoing?

**Mr McDonald:** Part of the task force's role is to tackle some of those issues which have been constant problems for business, and they can be a little bit more difficult. Automatic mutual recognition of occupational licensing was something which had been an objective of governments for well over a decade, and it still took us 12 to 18 months to get to where we are now. Overlapping regulations were only committed to by national cabinet in December last year. As to the fact that there are 10 priority areas now on the agenda, many of which have been issues for the community for a long time, I think that's a serious work plan and we are anticipating some forward movement midway through this year to late this year.

**CHAIR:** What has been the advantage of having national cabinet as a body to deal with some of these questions? Again, thinking about the feedback I receive from my business stakeholders back home, the overlap between state and Commonwealth regulation, or the hoops of fire that they might have to jump through in order to just go about their work, is a continual problem. So has national cabinet made that conversation any easier to have?

**Mr McDonald:** Certainly, without the direction from national cabinet with respect to automatic mutual recognition, I don't think it would have happened, and without the support of some very key state stakeholders it wouldn't have happened either. Obviously, there was the Commonwealth leadership role. Similarly, with the overlapping regulatory agenda, not every one of those 10 items of reform is going to be supported by all jurisdictions, but there is not an item of reform on there that does not have one jurisdiction supporting it. The model will be that demonstrated success should bring all jurisdictions along, hopefully, in the medium term, when they feel they are comfortable in doing it.

**CHAIR:** What is the key KPI that we are measuring towards here? When we're talking about deregulation, what do we think is the ultimate outcome? Is it a dollar value on productivity for our economy that you're working towards? What do we expect success to look like?

**Mr McDonald:** I'm an economist, so—

**CHAIR:** Very good!

**Mr McDonald:** I certainly think that measuring the value through GDP is a very key indicator. Different stakeholders obviously have different things they care about. Many in small business care about having more time late at night with their families rather than filling out forms, and particularly multiple forms with multiple sets of information that have already been asked for. So different groups have different KPIs. But, in terms of the benefit to the community, the reduction in deadweight loss from filling out red tape, both by business and government, is one indicator. The ultimate indicator is providing more income to families and the community in the future.

**CHAIR:** You mentioned that the task force was initially set up in mid-2019, so before the pandemic. I'm always looking for silver linings in the pandemic and the experience we've had over the last two years! Has the pandemic precipitated or made it more urgent that we have these conversations around making life easier for business? I know that, when we were talking about reawakening the economy after those first lockdowns in 2020, there was a lot of conversation around government getting out of the way so that business could get about its work. Do you think that that sentiment from the business community has made your job easier and has shed light on more areas of deregulation that we should be focusing on?

**Mr McDonald:** One of the costs of regulation which are unnecessary is that it not only makes the country poorer; it also makes it less resilient. Businesses are less able to change their behaviour according to certain circumstances—

**CHAIR:** Exactly.

**Mr McDonald:** I think it's the realisation that a more flexible economy is good for growth and also good for resilience. Again, automatic mutual recognition of occupational licensing is not only expected to lift the incomes of Australians by \$2.4 billion over 10 years; it's also expected to help get workers to where they're needed across the economy in response to shocks, whether those are bushfires or other natural disasters. Workers should be able to go across borders to where they're needed. That kind of element of resilience is not only relevant for occupational licensing but relevant for all forms of regulation where businesses are unnecessarily restricted from changing their behaviour.

**CHAIR:** Thank you. Senator Patrick.

**Senator PATRICK:** I have a question which follows up from before. Can I also confirm that minutes of the national cabinet—the body that you call national cabinet—don't go to the Governor-General either?

**Ms Foster:** I'll ask the cabinet experts to help me. My understanding is that because the Governor-General gets cabinet minutes and most NSC minutes—unless they're compartmented in some way—because all other committees of cabinet have the minutes wrapped up into a cabinet minute—

**Ms L McGregor:** Yes, that's correct. Because national cabinet minutes are endorsed by cabinet, the cabinet minutes are provided to the Governor-General—but not all of the national cabinet minutes. That would probably be more for reasons of efficiency than anything else.

**Senator PATRICK:** Yes, sure. Sorry, Chair—before we had an answer that was, 'No, there was no—'

**Ms L McGregor:** That was my fault, Senator.

**Senator PATRICK:** Okay. Can we start that again, then, just to get the record straight for all those who are confused?

**Ms Foster:** That's why I came straight back to it, because we had answered your question incorrectly.

**Senator PATRICK:** Okay. So the Governor-General does get cabinet minutes?

**Ms Foster:** That's correct.

**Ms L McGregor:** Yes.

**Senator PATRICK:** But not national cabinet minutes?

**Ms L McGregor:** Not national cabinet specifically, but, because cabinet minutes do endorse national cabinet minutes and decisions, he gets them in that way.

**Senator PATRICK:** Sure, I understand.

**Ms Foster:** In the same way that he would get an ERC minute or from another committee of cabinet. The reason he gets NSC is because they don't need endorsement by cabinet.

**Senator PATRICK:** Yes, okay. That's very helpful. And, of course, we know that national cabinet is not a cabinet—I'll just put that in there and hand back to the chair.

**Senator Birmingham:** Senator, just for entire clarity there about what officials have been saying: it sounds like the Governor-General receives minutes of cabinet and not of cabinet subcommittees established under the cabinet structure, whatever they may be.

**Senator PATRICK:** Sure.

**Senator Birmingham:** I know you have a debate in relation to the national cabinet, but, for the question around the Governor-General, he receives the minutes of cabinet and not of cabinet subcommittees, save the exception of NSC, where NSC makes decisions that do not require the endorsement of cabinet.

**Ms Foster:** And those are provided in hard copy, in batches.

**Senator PATRICK:** I was looking back at some of the other questions, and my understanding is that he would return them at the point at which he has finished with them, or, after he's read them, he would return them to the department.

**Ms Foster:** That sounds reasonable. Rather than chance my arm again, I will actually get an answer for you.

**Senator PATRICK:** The previous questions on notice, going back to about 2005, suggested—because obviously there are sensitivities around cabinet minutes—that, when he had completed his use of those cabinet minutes, then they were returned.

**Ms Foster:** That would be consistent with our usual practice, but I would like to actually clarify with someone who knows the process, and I will then provide that answer to the chair before we close.

**Senator PATRICK:** Thank you.

**Senator GALLAGHER:** Minister, it's been a year since the alleged assault of Ms Higgins in a ministerial office was made public and almost a year since Mr Morrison commissioned the Gaetjens review to find out who knew what in the Prime Minister's office, which is a report that we've never seen. It might not have been finalised, but we certainly haven't seen anything. Mr Gaetjens was invited to appear before this committee today but has declined that request. We've had the Foster review, the Jenkins review, the Kunkel review, and I think the Hammond review maybe got dumped at some point, but we still don't know who knew what from the Prime Minister's office. I accept that there are proceedings underway—I understand that—but I am wondering whether there is (1) an update that could be provided to the committee on the status of that review and (2) whether it was complete prior to it being suspended. Perhaps we could start there.

**Ms Foster:** The status remains the same as it was when the secretary issued a statement on 30 August 2021 that, based on legal advice, he had suspended his inquiry until the conclusion of the criminal trial. We also have very clear advice that the secretary should not comment any further on that inquiry or its progress. In fact, I think on Saturday the ACT Director of Public Prosecutions came out publicly saying, 'I discourage all public commentary on active cases.'

**Senator GALLAGHER:** I saw those comments, so I am trying to be careful. The advice you got about suspending it—correct me if I'm wrong—was from the Federal Police, I think.

**Ms Foster:** No. It was from AGS. We had had a number of—

**Senator GALLAGHER:** The Government Solicitor, was it?

**Ms Foster:** There had been a number of stages, and there was a point earlier on in the inquiry where the AFP strongly advised that Mr Gaetjens should put it on pause, and this was at the stage where the AFP was essentially preparing a brief of evidence. They then advised that, from their perspective, there was no barrier to Mr Gaetjens recommencing. He recommenced, and then the ACT DPP advised—it was in the context of Ms Higgins's participation in Mr Gaetjens's inquiry—that any participation could be severely prejudicial to the conduct of the trial. On the basis of those public comments, we sought advice from AGS on what Mr Gaetjens's response should be, because of course the ACT DPP can't advise the Commonwealth. So AGS advised us that, at that point, we should cease.

**Senator GALLAGHER:** When was that? Can you give me the date of that?

**Ms Foster:** I can. The advice from AGS to us was 27 August 2021.

**Senator GALLAGHER:** Okay.

**Ms Foster:** And Mr Gaetjens's public statement was the following Monday, 30 August.

**Senator GALLAGHER:** Yes, it was 30 August. So the report was commissioned by the Prime Minister on 17 February 2021, then you got advice and presumably it was suspended on receipt of that advice, between 27 and 30 February. There's 110 days between those two dates. Why did it take 110 days, and still nobody knew what the Prime Minister's office knew? Mr Gaetjens, when he appeared here in May last year, said, when asked about the time frame, it would take a matter of weeks, not months, to conclude the inquiry. And yet by the time it was suspended it had been going on for 110 days.

**Ms Foster:** As I indicated, there was also a suspension at the advice of the AFP earlier, in the course of the inquiry.

**Senator GALLAGHER:** Okay. So was it suspended briefly and then resumed? Or was it actually suspended earlier than we thought?

**Ms Foster:** It was suspended, resumed and then suspended again.

**Senator GALLAGHER:** Okay. You must have those dates when it was suspended and resumed?

**Ms Foster:** It was 9 March when the AFP commissioner advised the secretary to hold off finalising the review.

**Senator GALLAGHER:** 'Finalising' it?

**Ms Foster:** And finalising any records. And then on 10 May the AFP commissioner wrote to the secretary, saying he was of the view that the criminal investigation was sufficiently advanced so as to be no problematic intersection between the Gaetjens inquiry and the current criminal investigation. And that was, of course, then suspended again following the ACT DPP's comments and our AGS advice.

**Senator GALLAGHER:** Okay. Just to be clear, it commenced on 17 February, it was suspended on 9 March, it resumed on 10 May and then was suspended on 30 August or thereabouts?

**Ms Foster:** That's correct.

**Senator GALLAGHER:** In your earlier evidence you said that the police commissioner said he shouldn't 'finalise' the report. That was in March. So was the report, at that point, in the matter of being finalised in early March?

**Ms Foster:** Until the report was final, Mr Gaetjens wasn't in a position to indicate how close to finality it was or when it would be finalised. As you're conscious, in any such inquiry any witness could provide information that then requires further investigation.

**Senator GALLAGHER:** I think your answer there is that you're not sure if it was finalised—that he hadn't indicated whether it was finalised or not?

**Ms Foster:** I'm just saying that until it is actually finalised it's not possible to say it will be finalised whenever, because one can't know where any witness might lead the inquiry.

**Senator GALLAGHER:** Minister, why couldn't the Prime Minister just ask his office what they knew? It's on the record a number of times that a number of staff were told, including the chief of staff to Minister Reynolds, that they'd had a meeting with the PMO and other representatives from Minister Hawke's office. There's enough on the record to know that there were staff that knew. Why couldn't the Prime Minister just go and ask them, so we could actually deal with this issue of what the PMO knew and when quickly? He could have done that at the time.

**Senator Birmingham:** Statements were made at the time. I don't believe that those statements satisfied your position or others, and so this process was initiated in good faith in an attempt to address those questions. Obviously, its intersection with the legal processes underway has become challenging—to the point that we're acting upon AGS advice following statements of the ACT DPP, which has further emphasised in recent days the suspension of proceedings that was undertaken.

**Senator GALLAGHER:** It seems like the Higgins matter is a defining issue of this parliament and it would seem that we're going to get to the end of it without knowing what the Prime Minister and his office knew about it, because we have this complicated process when the Prime Minister could have just asked.

**Senator Birmingham:** As I said, I think the Prime Minister was quite clear that he had not been informed. He was quite public in that regard. There were subsequent questions around knowledge across his office. While some of those were addressed, there were questions asked and so he sought to provide a process to resolve those questions. The legal consequences of what is, of course, critically important—to see justice served—have stymied that process.

**Senator GALLAGHER:** I am being careful with my questions here. Did any staff seek legal representation during the course of the Gaetjens review, and were taxpayers paying for any of that legal advice?

**Senator Birmingham:** I'll separate that question into two parts. We have some processes in place in relation to reporting on legal advice and assistance provided to staff under the legal services determination that finance reports on. It does so in a way that doesn't seek to identify individuals or to risk the identification of those individuals. Of course, we can go through current expenses in relation to those matters of support for staff over the period, the time frame, that finance reports it tomorrow.

In terms of this individual issue, I don't think it would be helpful for us to get into the details of the processes with individuals who may have been interviewed by or had discussions with Mr Gaetjens, given the fact that there's the possibility that there's an intersection there with individuals who might end up providing evidence in criminal proceedings or other matters that, no doubt, are driving the ACT DPP's advice to everyone to be mindful of comments they provide in regard to this matter.

**Senator GALLAGHER:** Yes. I am trying to be mindful, and I hear what you're saying. Mine is a general question about whether any staff member involved with the Gaetjens review is being represented legally. I'm not asking for the names of people and I'm not asking for how many; I just want to know whether there are staff who are being legally represented through this?

**Senator Birmingham:** The matter of legal representation is a personal matter for individual staff. The matter of whether it is provided in any circumstances under the legal services direction is something which finance, out of established protocols for addressing those questions, can provide updates on tomorrow.

**Senator GALLAGHER:** Is the government meeting any legal costs in connection with the trial of the person accused of assaulting Ms Higgins?

**Senator Birmingham:** I think that question has been addressed, but I will double-check before we get to tomorrow before providing any response to it.

**Senator GALLAGHER:** And, in terms of whether any of the Prime Minister's current or former staff are in receipt of financial assistance from taxpayers in connection with the matter, is that also a matter for tomorrow?

**Senator Birmingham:** Yes, noting, as I said, that Finance has established protocols around how they report that so that it's reported in a manner that doesn't risk identifying individuals.

**Senator GALLAGHER:** Ms Higgins attended the parliament last Tuesday for the statement of acknowledgement. Are you aware whether Mr Morrison reached out to Ms Higgins about the terms of the apology he gave to her?

**Senator Birmingham:** In terms of the Prime Minister's statement, you know the process around the acknowledgement delivered by the Presiding Officers and that there was quite an exchange between parties, as

part of that acknowledgement by Presiding Officers and consultation with the Sex Discrimination Commissioner, as part of that process as well. In terms of the Prime Minister's response to that acknowledgement, I'm not aware that that was consulted on other than the Prime Minister and those he may have asked to help with the drafting.

**Senator GALLAGHER:** Essentially, you're not sure. You don't think so, that he or someone from his office reached out about the form in which the apology would take.

**Senator Birmingham:** Not to my knowledge. So far as I'm aware, that was drafted and prepared as a sincere reflection of the Prime Minister's wish to give acknowledgement, as Commissioner Jenkins had recommended, but also to provide the apology and call to action that was consistent with what was said in the overall acknowledgement delivered by the Presiding Officers.

**Senator GALLAGHER:** Considering the nature of the contribution he made and the comments directly to Ms Higgins, did the Prime Minister request the attendance of Ms Higgins in the public gallery?

**Senator Birmingham:** I think you might recall, in some of the earlier discussions leading up around the statement of acknowledgement, I had indicated that I would be making clear to the AHRC that I would ask them to inform all participants in Commissioner Jenkins's review that the acknowledgement would be made. I wanted them to make that clear—mindful that the parliament is, essentially, closed to the public for this couple of weeks—but to make it possible for people to know that it was happening and have the chance to review that through the normal procedures.

As it got closer to Tuesday, I became aware of the fact that there were a limited number of exemptions that had been given, which I think the President went through earlier today for some other circumstances. At that time, I know the Presiding Officers made efforts with MPs to ensure that those who had expressed an interest in attending in person were provided with the assistance to do so.

**Senator GALLAGHER:** There were media reports on the weekend that said Mr Morrison wasn't intending to speak at all in response to the statement. I'm not sure if you saw those media reports, but were they correct?

**Senator Birmingham:** No. The Prime Minister was always going to be guided by the decision and deliberations between parties on the cross-party leadership task force about the best way to ensure that the acknowledgement was delivered in a sincere and meaningful way, free of any partisanship.

**Senator GALLAGHER:** Was the decision for the Prime Minister to speak made on the Monday or the Tuesday?

**Senator Birmingham:** I think discussions in that cross-party leadership task force, in terms of the iterative exchanges and otherwise, had settled on the fact that, notwithstanding some of the concerns expressed by some members—and I don't want to go into what we are trying to establish as a discussion of these undertaken in confidence, but I think it was following feedback from different members, with different perspectives, that the decision was made on the Sunday or Monday that leaders would add to the statements of the Presiding Officers.

**Senator GALLAGHER:** I think the reports in the media say that it was only after Mr Albanese's office insisted that the Labor leader would speak that Mr Morrison chose to do so.

**Senator Birmingham:** I know Mr Morrison and his office were preparing his remarks over a period of days. They were cognisant of the importance of the occasion. The decision around whether it would simply be statements by the Presiding Officers or statements added to by others was one that the leadership task force was discussing in good faith with different perspectives across different party lines and representatives. But ultimately the PM was always willing to participate in whichever way that cross-party task force felt would be most befitting of the occasion to achieve a statement of acknowledgement that genuinely reflected the views of the parliament.

**Senator GALLAGHER:** Has Mr Morrison spoken to Ms Higgins at all since the Jenkins report has been completed?

**Senator Birmingham:** Not to my knowledge, no.

**Senator GALLAGHER:** Does he plan to consult Ms Higgins on the implementation of Ms Jenkins's recommendations? Is there any involvement from Ms Higgins?

**Senator Birmingham:** The Prime Minister has made clear that the government wants to see action taken across all the recommendations. The recommendations, as you know, Senator, involve some notionally for government, some for the parliament, some for party leaders, and some for the presiding officers and parliamentary departments. The chair of the leadership task force that's been appointed—and I understand Ms Hartland has engaged with Ms Higgins—I know that of course in finalising the report but, more particularly, in the public release of Commissioner Jenkins's report, the government agreed with Commissioner Jenkins and the

AHRC that it was important for Ms Higgins to be briefed, before that report was publicly released, on its contents and facilitated that to occur, along with possibly some other targeted briefings of communications.

**Senator GALLAGHER:** Yes. So will he or his office have contact with Ms Higgins? I know all the other things that are being done and I welcome them, and we're happy to be involved. But does the Prime Minister, who is in charge of a lot of staff who work in this building, see any merit in consulting with Ms Higgins as we implement the review's recommendations?

**Senator Birmingham:** I'm sure if there was a wish to do so then he would. I know the Prime Minister heard the message from Ms Higgins at the Press Club last week as loudly and clearly as I did, which was that she wants to see us act on those recommendations, and that is what the government is seeking to do, in concert with all the other stakeholders from other parties to deliver upon it.

**Senator GALLAGHER:** So you're saying that, if Ms Higgins wants to discuss it with him, that would be fine, but a proactive reaching out is not on the agenda or hasn't been part of the thinking of the PMO?

**Senator Birmingham:** The government's cognisant of what Ms Higgins has said publicly not just at the Press Club but, indeed, at the time Commissioner Jenkins's report was released. As we indicated, following its conclusion and handing to government but before its public release, we agreed and encouraged the AHRC to provide briefings to her. My understanding, in terms of all of the public comments and the feedback that's been provided, is to get on with it—get on with it and act on these recommendations. There may be junctures, either for the government or for the leadership task force, as we implement some of the recommendations, such as around the establishment of the OPSC, at which we might want to engage in a targeted way with individuals who participated in the Jenkins review. I think that's certainly open to us, as we move through each of those recommendations, to consider, and to consider the right engagement mechanism where necessary.

**Senator GALLAGHER:** Ms Foster, did PM&C draft the speech for the Prime Minister on the statement of acknowledgment?

**Ms Foster:** No.

**Senator GALLAGHER:** You didn't?

**Ms Foster:** No.

**Senator GALLAGHER:** Did you see it beforehand?

**Ms Foster:** I certainly didn't. I'll have to take on notice whether anyone else in the department did.

**Senator GALLAGHER:** In ministerial liaison? Is that what you're talking about—whether anyone in that unit saw it?

**Ms Foster:** Yes, or in fact anyone in our social policy area. I can only answer on behalf of myself. I don't know what was—

**Senator GALLAGHER:** Is it normal, for speeches given by the Prime Minister, for you not to be involved in drafting them?

**Ms Foster:** There are a real range of approaches to speeches. Sometimes we draft it and it's delivered almost as drafted. Sometimes we have nothing to do with speeches. At other times it's a more collaborative approach.

**Senator GALLAGHER:** So, if you didn't have anything to see, there wouldn't have been any legal advice taken around it either? I know you've all been very cautious about what can and can't be said. I'm just wondering whether there was any advice provided about that for the speech.

**Ms Foster:** I guess that would be dependent on what I find about whether anyone else in the department saw the speech. But, of course, the PMO has access to legal advice.

**Senator GALLAGHER:** Inside the PMO?

**Ms Foster:** That doesn't need to go through the department or external advice.

**Senator GALLAGHER:** As far as you know—and you'd know, wouldn't you, if you were writing a speech for the Prime Minister, that it was being done inside the department?

**Ms Foster:** I wouldn't necessarily know. I know that I wasn't personally involved but I know that the folks listening will be checking for me now to see if anyone else had involvement.

**Senator GALLAGHER:** Minister, after the National Press Club speech where Ms Tame raised a concern around a phone call that she'd received, which she took to be warning her about her behaviour around the Prime Minister, Senator Ruston that afternoon said: 'My understanding is that, subsequent to hearing about it, action has already been taken to investigate the circumstances around the accusation that Ms Tame made.' Can you explain

to the committee what that investigation is or if there is an investigation, because I think the next day it was less clear whether there was an investigation.

**Senator Birmingham:** I understand that inquiries were made in terms of whether Ms Tame, who obviously publicly declined to add further to her comments, was willing to do so, and that inquiries were also made at least in terms of awareness of agencies in relation to the matter.

I'm not aware that anybody has identified any individual who has been either nominated by Ms Tame or nominated themselves as having said any such thing. The Prime Minister and government ministers have been very clear that Ms Tame should be free to speak her mind, both previously during her time as Australian of the Year and of course now that that 12-month period is over. She continues to be free to speak her mind on the very important issues, particularly around child sexual abuse, that she has championed, and also on other areas of discrimination and abuse that she has championed.

**Senator GALLAGHER:** Minister Ruston said that action was being taken to investigate the circumstances—and I note that Ms Tame herself has said that she's not keen on an investigation. The next day, the Prime Minister said:

Inquiries can only be made where we can be directed.

So there's not an investigation underway; there have been some inquiries made. Is that your evidence?

**Senator Birmingham:** That's right.

**Senator GALLAGHER:** And those inquiries have been done and nobody can answer—

**Senator Birmingham:** At this stage, that's my understanding.

**Senator GALLAGHER:** Senator Birmingham, you issued a press release on 4 February, I think—just before parliament resumed—stating that you commissioned the Department of the Prime Minister and Cabinet to undertake a MOP(S) Act review in line with the Jenkins report. Can you tell me—or maybe Ms Foster can—when the review was commissioned and the terms of reference? Can they be tabled, and any consultation plan you have in place for the review?

**Senator Birmingham:** I'm sure the officials can talk you through the terms of reference and processes there. I know, just for transparency, that there have been some discussions about this as well between the Special Minister of State and Senator Farrell, as the shadow minister special minister of state, and prior to those arrangements. Again, you'll appreciate there was a lot of documentation, which we know from the meeting was provided to the leadership task force, but in terms of the status of actions against different recommendations—

**Senator GALLAGHER:** Yes.

**Senator Birmingham:** that review was part of our status—

**Senator GALLAGHER:** Yes, but that's not public, is it?

**Senator Birmingham:** No.

**Senator GALLAGHER:** I'm trying to get some—

**Senator Birmingham:** I appreciate that. Yes, there is a time line and a consultation process, and all of those different aspects that the department can speak about.

**Senator GALLAGHER:** Yes. And can we table the terms of reference as well?

**Ms Foster:** Yes. I don't actually have them with me, I'm sorry, but I'll see if I can get them.

**Senator GALLAGHER:** Yes.

**Ms Foster:** The short answer is that we have just begun developing the plan for how we will approach the review. Certainly, we're planning on a consultation phase. I'm planning to second some expertise into the department to assist with the review.

**Senator GALLAGHER:** From another department?

**Ms Foster:** More than specific departments. At the moment we're asking, 'What are the specific areas of expertise we need and where would we best find those?' It may be from other departments or it may be from the private sector. We're just scoping that out at the moment. I think—

**Senator GALLAGHER:** Who's undertaking the review? Have you decided that yet?

**Ms Foster:** I've been formally tasked to lead it, but I will obviously—

**Senator GALLAGHER:** Another Foster review—mark 2!

**Ms Foster:** I will bring an expertise to do that.

**Senator GALLAGHER:** You'll probably have more of them. So you're going to lead the review, but you'll bring in additional resources.

**Ms Foster:** That's correct.

**Senator GALLAGHER:** Is there a consultation plan that you're able to provide, or is that still being developed?

**Ms Foster:** We're just developing that, Senator.

**Senator GALLAGHER:** I presume that staff and their representatives will be involved in that?

**Ms Foster:** Absolutely, Senator.

**Senator GALLAGHER:** Do you have any time line for decisions on that?

**Ms Foster:** For the plan?

**Senator GALLAGHER:** For it to kick off, for information to be made available—

**Ms Foster:** I think we're literally days away from finalising that. The team that's been supporting me with the Jenkins-related implementation issues has had a pretty strong focus in the last week or so on helping to get the leadership task force up and running and to get the legislation into parliament, but this review is our next big focus.

**Senator GALLAGHER:** Recommendation 18 of the Jenkins report, which deals with this, was this:

... a comprehensive review of the MOP(S) Act employment framework, including but not limited to, governance and institutional arrangements, staffing allocations, accountability, recruitment and employment security.

Are you confident that the terms of reference cover off all of those issues, including employment security?

**Ms Foster:** I am. The terms of reference are fairly broad in their scope, so we'll be able to consider the range of issues. I've also had a couple of conversations with Commissioner Jenkins, because the amount of material in the Jenkins report on this was, I think, pretty much limited to what you just read out. We've been working with her to get a little bit more context and background on where those issues came from and what the driver for them was so we can make sure we're responding to what she heard. But, of course, we'll do our own consultation process.

**Senator GALLAGHER:** So you are confident that we'll be able to incorporate that, because I think there were some concerns around whether employment security fitted into and under the terms of reference?

**Ms Foster:** Yes, I am, Senator.

**Senator GALLAGHER:** I've got more questions, but that's an appropriate break.

**Senator O'SULLIVAN:** I've got questions about skills reform.

**Ms Foster:** Certainly, Senator. I can confirm that the department was not involved in the preparation of the Prime Minister's speech, Chair. Senator, obviously that topic can come from a number of different angles. Perhaps if you start asking the questions, we'll work out if we've got the appropriate officers.

**Senator O'SULLIVAN:** Sure. I'm going to be asking about the JobTrainer Fund, apprentice wage subsidies and incentives for employers.

**Ms Foster:** My colleague Mr Duggan and I will work out, as you ask your questions, who might take the lead in these responses.

**Senator O'SULLIVAN:** Sure. No problems at all. By way of context, this is particularly the case in my home state of Western Australia. I'm sure it's similar elsewhere, but it's possibly exaggerated a little bit more there because of the border situation, with it being closed off to the rest of the country and indeed the world. Employers are screaming out for people who have the necessary skills for the opportunities and the jobs that are available. I'm curious to know how the JobTrainer fund program is going and in particular the rationale behind that particular initiative.

**Mr Duggan:** You're right that through the course of the pandemic demand for labour has remained very strong across most sectors of the economy, and one of the key focuses has been ensuring that the government is in a position to, as efficiently as possible, link the available labour to its highest and most productive uses. In the context of the JobTrainer fund, that was an investment by the government in rapidly providing additional training places for people to undertake skills training to be ready for the demand for labour in the economy. I don't have the latest statistics in front of me, but we do know that most if not all of those places have been taken up, which tells you that people are taking advantage of the opportunity to get the training, and businesses are then taking advantage of those trained employees to meet their workforce needs.



**Senator O'SULLIVAN:** What was the target? Do you have that number?

**Mr Duggan:** I don't have that in front of me, no. The department of employment would have that number.

**Senator O'SULLIVAN:** What role does the Skills National Cabinet Reform Committee—the subcommittee of national cabinet—have with this program?

**Ms Frame:** The nat cab reform committee is involved in the negotiations around the new skills agreement. As my colleague said, that's led by our colleagues in DESE, leading those discussions with the relevant minister, and they are working through negotiations with states and territories around skills reform. That includes additional JobTrainer funding, as you know, that was allocated in last year's budget. So, they're having those specific conversations with all states and territories about their preferences and seeking to negotiate key reforms from the Commonwealth in the skills space, including the additional JobTrainer funds.

**Senator O'SULLIVAN:** Do we know where we're up to with those negotiations? Have all the states signed up yet? Or is that ongoing?

**Ms Frame:** I'm just checking on some current information. As I said, our colleagues in DESE are leading on this, so they would have all the up-to-the-minute information. As at 27 January this year, all states bar the Northern Territory have signed on to the JobTrainer extension, and currently negotiations are ongoing with the Northern Territory.

**Senator O'SULLIVAN:** My next question is in relation to wage subsidies and incentives for employers to hire people, in particular for apprentices and trainees—and of course that's part of a longer-term goal of addressing the skills shortages that exist. How has the government supported wage subsidies for small businesses, particularly during COVID?

**Mr Duggan:** The government has introduced a number of apprenticeship support packages through this period. One of the concerns, when you're going through an economic crisis such as this, is whether businesses are going to be in a position to retain their apprentices through this period. So, the government has provided a range of supports, providing direct wage subsidies to businesses that retain their apprentices through this period. The government has also provided programs building on the existing programs around wage subsidies to encourage businesses to take on a new apprentice during this period. We know that early in the pandemic, in particular, it was younger people who were most affected by the businesses going into hibernation during the early phase of the COVID crisis. So, the government took an active decision to try to ensure that those young people had opportunities to enter the workforce, whether it was training through a JobTrainer type of process or through an apprenticeship scheme. A lot of apprenticeship places were made available through that time.

**Senator O'SULLIVAN:** During previous interruptions to the labour market—for example, the GFC in 2008 and around that period—there was a significant downturn. The point is, when the labour market is put under pressure, those sorts of jobs are the ones that are let go. Businesses have to make tough decisions and, sadly, sometimes it is an easier decision to make to let people go who maybe do not have all the skills required to make their businesses profitable at that particular time or in potentially a lean time. Have we been able to, broadly, across the economy, ward off that mass letting go of apprentices and trainees because of the supports that have been provided by way of subsidies and incentives for employers to hang onto staff and recruit new ones?

**Mr Duggan:** Yes, that has been the experience. The analogy going back to the GFC is a good one. One of the things that is common between these two episodes is that we entered these crises with levels of unemployment we had not seen for many years. Businesses went into it with a mindset of trying to retain as many of their qualified skilled workers as they could because the challenge they were having prior to the GFC and prior to COVID was accessing highly qualified staff. And you are right—when business faces a demand downturn, it is the staff less qualified, more at the margins of unemployment, who tend to be those who they will look to stand down in the first instance. So there is a real emphasis through the apprenticeship programs, in particular, on ensuring we are providing incentives for business to retain those workers through that period. Of course, that was supplemented by JobKeeper, which was a big job retention related scheme. The combination of those two things meant we did not see the loss of particularly young people from the labour market that we might have seen. The key piece of evidence for the success of that is that we are now down in the unemployment rate, a full percentage point lower than before we entered the COVID pandemic, which tells you that one of the more difficult challenges now is around labour supply and skills needs. Now labour has become scarcer, it has become a valuable commodity to businesses and that is the focus around—as you are asking Ms Frame—the skills agreement, trying to ensure we are skilling up as many Australians as possible to participate in the labour market.

**Senator O'SULLIVAN:** There was an initial commitment in the 2020-21 budget of \$2.8 billion for apprentice and trainee wage subsidies. Has the government expanded on that? Has there been any further expansion on that? Somebody said it is fully subscribed, so has it gone on to make more opportunities?

**Mr Duggan:** There have been several phases of support— so yes. My recollection is there have been a couple of phases of that apprenticeship support. Again, I do not have the details in front of me, but I think you are correct in that.

**Senator GALLAGHER:** Ms Foster, the caretaker guidelines were reviewed last year, were they?

**Ms Foster:** That is correct.

**Senator GALLAGHER:** Caretaker guidelines 2021—you undertook the work, didn't you, post the 2009 election? I recall us in another committee having a discussion and you were reviewing the caretaker guidelines, or is that just normal business?

**Ms Foster:** We tend to reissue the guidelines prior to each election. I think we did these in December 2021, typically a little way out from when an election is called, if we can estimate that, so that people can start preparing.

**Senator GALLAGHER:** Yes, okay, so you have done that. Were any changes made from the 2019 election?

**Ms Foster:** There was really only one change of substance. Mr Reid took the committee through that earlier today, but we can do that again if you would like to, because it was a fairly straightforward answer.

**Senator GALLAGHER:** Yes, just the change that was made.

**Mr Reid:** We removed a part of the guidance which related to the ability of ministers to claim travel expenses between the campaign launch and polling day so there was no perceived overlap between the Parliamentary Business Resources Act and framework.

**Senator Birmingham:** It's important to recall that the conventions have applied to shadow ministers as equally as they apply to ministers. Obviously, in the caretaker principles, they may have been more expressly reserved for ministers.

**Senator GALLAGHER:** So these go out to the department. They then nominate a couple of officers at senior level, presumably, that are responsible for providing advice on caretaker to their own department but, presumably, in liaison with ministers' offices as well. Is that correct?

**Ms Foster:** Each department typically will set up a unit of some sort to provide support and advice within the department on caretaker issues. We have a unit within PM&C each time, where we have various ways of accessing that unit, so, if departments are not sure internally, they will come to PM&C for advice.

**Senator GALLAGHER:** Last election, in 2019, there was quite a bit of expenditure that was approved before the guidelines were in place and after parliament had been prorogued. Is the government committing to not do that this time around?

**Senator Birmingham:** The government will certainly adhere to caretaker conventions—

**Senator GALLAGHER:** You didn't last time.

**Senator Birmingham:** and be cognisant of the advice we have received from departments in relation to them.

**Senator GALLAGHER:** There was millions of dollars approved after parliament was prorogued last time around. Is the government going to do that again?

**Senator Birmingham:** I am not going to—

**Senator GALLAGHER:** It is pretty easy. Are you going to spend money after caretaker period kicks in?

**Senator Birmingham:** We will adhere to and be cognisant of advice from departments in relation to caretaker conventions.

**Senator GALLAGHER:** But you didn't last time.

**Senator Birmingham:** You can make assertions, if you like.

**Senator GALLAGHER:** It is not an assertion. It is in the Audit Office report into sports grants. They were signed off on after caretaker period started. Are you going to do that again or can you give a commitment here today that you will not be doing that?

**Senator Birmingham:** I'm giving the commitment that we will adhere to caretaker conventions—

**Senator GALLAGHER:** But you didn't last time, so it means nothing.

**Senator Birmingham:** being cognisant of advice we receive from departments in doing so.

**Senator GALLAGHER:** So you will do what you did last time, then?

**Senator Birmingham:** I'm trying to give you a commitment about the conventions.

**Senator GALLAGHER:** Why can't you just say, 'No, we will not expend millions of dollars of public funds after the parliament is prorogued'?

**Senator Birmingham:** I'm giving a commitment in relation to caretaker conventions and that we will be cognisant of the advice from the departments and adhere to the conventions.

**Senator GALLAGHER:** On the eve of the election—I think the night before the parliament was prorogued—hundreds of millions of dollars were approved by the Prime Minister, and I think you signed off on those as well, into the car park port program. Is that going to be a thing you do again—the night of the long pen, signing off on hundreds of millions of dollars of taxpayer funds for election policy announcements? That is what it was.

**Senator Birmingham:** There is a lot of commentary in your question there, much of which—

**Senator GALLAGHER:** Well, it is all true.

**Senator Birmingham:** I dispute, including the observation that I signed off on anything. But I am sure my predecessor, if he had functions to do so, would have.

**Senator GALLAGHER:** Yes, sorry, it would have been the Minister for Finance. It would have been Mathias.

**Senator Birmingham:** The process the government went through going into the last election was to hand down a budget. The types of commitments we were making in the campaign were fully budgeted and reflected in the budget we took through.

**Senator GALLAGHER:** But they were announcements made in the budget available to supposedly all Australian taxpayers and then, the night before the election, were signed off into just certain seats. That is the problem I have with it. What started as a program for everyone turned into a program for some and it was the night before the election was called. Is there going to be a night like that where you do the same thing, considering the budget's scheduled just a few days before the election's called?

**Senator Birmingham:** As we've gone around in the chamber on other occasions previously, there were plenty of projects in the realm of commuter car parks and the like that your party was committing to around the country.

**Senator GALLAGHER:** No, we were not government. We did not, on budget night, announce a program for all of Australia that ended up with four car parks in the Treasurer's own electorate. It's superdodgy!

**Senator Birmingham:** If we didn't budget for our promises, you'd be the first to criticise us.

**Senator GALLAGHER:** You've been up to your eyeballs in it. Why can't you give a commitment that the money that is appropriated in the budget is not going to just be spent in targeted or marginal seats like you did last time? That's the thing people don't like.

**Senator Birmingham:** I give the commitment that we will budget for our promises and the policies we take to the election, as is the consistent approach of our side of politics. I'm not going to take lectures about individual projects. If you want me to return after the break with a list of the various swimming pools and parks and other localised programs that Mr Albanese has already promised for the next election and already promised in terms of going out there—they're overwhelmingly in what one might describe as Labor or Labor targeted seats. You're clearly pursuing the strategy there yourselves, so I'm not going to take lectures in that regard.

**Senator GALLAGHER:** We are being upfront before the election about our commitments.

**Senator Birmingham:** As were we.

**Senator GALLAGHER:** No, you were not. This is the difference.

**Senator Birmingham:** You can't have it both ways.

**Senator GALLAGHER:** You started a car park fund that you announced on budget night. When you announced it, you said it's so people all around Australia will get this improvement. Then what you did was you went—

**Senator Birmingham:** Before the election.

**Senator GALLAGHER:** The night before the election. When you were in government, you allocated that into—

**Senator Birmingham:** No, before the election was even called. So Australians had five weeks of certainty about where the money would be spent.

**Senator GALLAGHER:** your targeted or marginal seats. No, you pretended it was something else and then you used it to sandbag in marginal seats. That's what you did. So it is very different.

**Senator Birmingham:** You seem to be proposing that you would rather we had gone through the entire election campaign pretending that we were somehow going to give this money to everybody, rather than making it clear who we were going to give it to and, if so, who was also going to miss out, which we made quite transparent in the campaign.

**Senator GALLAGHER:** If you'd been honest about that fund, which you weren't.

**Senator Birmingham:** We were.

**Senator GALLAGHER:** You were not honest about it.

**Senator Birmingham:** You are criticising us for having made the decisions to the Australian people in advance of the election.

**Senator GALLAGHER:** No, you weren't honest, because you didn't tell anybody, on budget night, when you established the fund, that it was going to end up with four car parks in the Treasurer's electorate. None of that was told, but you all knew what was going to happen with it. That's the difference. That's what makes it dodgy.

**Senator Birmingham:** All of those promises were made before people voted.

**Senator AYRES:** I'm after the Audit Office report. We've learnt nothing.

**Senator Birmingham:** Okay, I'll bring the list of all that you're promising, if you like—

**Senator AYRES:** This is why people want a national integrity commission.

**Senator Birmingham:** with all the swimming pools and park upgrades in everywhere Mr Albanese has been and bring it back—

**CHAIR:** Senators, order!

**Senator AYRES:** You don't understand the caretaker conventions and you don't understand the responsibility—

**CHAIR:** Senator Ayres, is there a question?

**Senator Birmingham:** You just apply a double standard.

**Senator GALLAGHER:** There's no double standard.

**CHAIR:** Thank you, senators. We are overdue for our afternoon tea break, so I will suspend the committee now and we'll reconvene at five past five.

#### **Proceedings suspended from 16:48 to 17:07**

**Senator GALLAGHER:** I have some questions around the investigation into Ms Miller and Minister Tudge. On the morning of 2 December Ms Miller made a statement to the media containing some pretty shocking allegations about Mr Tudge's behaviour in the course of the minister's relationship with his staffer. How did Ms Miller's statement come to the attention of the Prime Minister?

**Senator Birmingham:** I'll take that on notice. There was fairly significant and quick media coverage, but, as to who that was brought to the PM's attention or how, I will find out for you.

**Senator GALLAGHER:** Was he aware of the alleged conduct before 2 December?

**Senator Birmingham:** No, I don't believe he was.

**Senator GALLAGHER:** Was any member of the Prime Minister's staff aware before 2 December?

**Senator Birmingham:** Not my knowledge.

**Senator GALLAGHER:** In the Prime Minister's statement to the House of Representatives, he said, 'The minister has agreed to my request to stand aside.' Can you confirm that, despite Ms Miller accusing the minister of physically assaulting her, the minister did not offer to stand aside but had to be asked by the Prime Minister?

**Senator Birmingham:** Again, for accuracy, I will seek to take that on notice. Given the seriousness of the claims made, the Prime Minister responded swiftly. Mr Tudge stood aside following their conversation, and the Prime Minister commissioned the independent inquiry to be undertaken by Dr Vivienne Thom.

**Senator GALLAGHER:** I presume you came with a brief on the allegations around Minister Tudge. Are you able to give me any information on the Prime Minister and Minister Tudge discussing the allegations? That certainly was included in the Prime Minister's statement in the House. Do you know when that discussion took place? Was it following Ms Miller's media statement, and, presumably, before the House of Representatives statement?

**Senator Birmingham:** It would have been following the media statement, yes.

**Senator GALLAGHER:** It didn't happen prior to the media statement?

**Senator Birmingham:** I think we just went through the line of events there, and I don't believe the Prime Minister or his office were aware of the allegations before they were aired publicly. If I need to correct any of that, I will, but my understanding is that they learnt from that public process and, from that, the Prime Minister acted in regard to establishing the independent inquiry and having Minister Tudge stand aside. I think all of that transpired in the course of a day. So we're not talking about a prolonged time line around these matters.

**Senator GALLAGHER:** Can you confirm that Mr Morrison's chief of staff, Dr Kunkel, contacted Ms Miller before question time on 2 December? And what was the purpose of that call?

**Senator Birmingham:** I can't; I'm happy to provide any additional information there, but—

**Senator GALLAGHER:** It was reported in the media.

**Senator Birmingham:** I would imagine that it would have been to advise her of what the Prime Minister was about to say in the House when he had to make a public statement on the matter.

**Senator GALLAGHER:** Okay. Will you come back on that? It's been reported in the media, so someone has told—

**Senator Birmingham:** Yes, I'm happy to clarify if that's the case or, if it's not, to come back on it. But as I said, I would imagine that it was the courtesy of seeking to inform Ms Miller of what was about to be said in the House in response to the issues she'd raised publicly.

**Senator GALLAGHER:** Ms Foster, did the Prime Minister seek any advice from the department before his discussion with Minister Tudge?

**Ms Foster:** The Prime Minister's office certainly called to advise that the Prime Minister wished to have an inquiry.

**Senator GALLAGHER:** Okay.

**Ms Foster:** I don't know the exact timing of that phone call in relation to when the Prime Minister spoke to Mr Tudge.

**Senator GALLAGHER:** Do you have a brief on this? Surely it would be in that.

**Ms Foster:** What I'm saying is that I don't know the exact timing of when the Prime Minister spoke to Mr Tudge. What I do know is that the office called me before the Prime Minister spoke about the inquiry in question time that day.

**Senator GALLAGHER:** Okay, so that was on 2 December—

**Ms Foster:** That's correct.

**Senator GALLAGHER:** You were advised that there needed to be an inquiry, and, presumably, the Prime Minister would take advice around how that was conducted? Is that right? You would then brief, yes?

**Ms Foster:** That is right.

**Senator GALLAGHER:** Who recommended Ms Thom as the person to do the review?

**Ms Foster:** I did.

**Senator GALLAGHER:** Why was that?

**Ms Foster:** There were a number of reasons. In setting up the Parliamentary Workplace Support Service, I had recently looked at the sort of eminent reviewers available to us. Dr Thom was one of those eminent reviewers that we set up to assist the Parliamentary Workplace Support Service in any inquiries it might undertake. It was on the basis of her experience and her reputation for thoroughness and integrity.

**Senator GALLAGHER:** She is used by the government a fair bit, isn't she, for various inquiries and investigations?

**Ms Foster:** To my knowledge, it's the first time I've contracted her to do an inquiry.

**Senator GALLAGHER:** Really? She's done a number of inquiries, certainly, for other agencies.

**Senator Birmingham:** Obviously she was asked by the High Court to undertake their work in relation to former justice Dyson Heydon and undertook a significant piece of work in that regard and I think has well-established credentials in that respect for independence and integrity in handling such matters. But, as Ms Foster said, she was not suggested from inside the government in that sense but by Ms Foster.

**Senator GALLAGHER:** Okay. So, you approached Ms Thom directly, did you?

**Ms Foster:** I did.

**Senator GALLAGHER:** And that was before question time on the 2nd?

**Ms Foster:** It was.

**Senator GALLAGHER:** That must have happened fairly quickly, did it?

**Ms Foster:** It did.

**Senator GALLAGHER:** There'd been a media appearance by Ms Miller. There'd been a discussion with the Prime Minister and the minister. There'd been a phone call from the Prime Minister's office to you saying what was needed. You'd recommended Ms Thom. They'd accepted that. You then contacted Ms Thom, and that all happened before question time.

**Ms Foster:** That's correct.

**Senator GALLAGHER:** The contract notice published on 11 January shows that the department contracted Ms Thom between 14 December and 31 January at a cost of \$44,325. Can you confirm that that's the contract—and I've got the contract number if you need it—that relates to Ms Thom's work on the Tudge investigation?

**Ms Foster:** It does, and that price will have been a cap to the contract, not necessarily the actual price of the contract.

**Senator GALLAGHER:** Do you know what the actual price of the contract is?

**Ms Foster:** I don't yet have the total price.

**Senator GALLAGHER:** But the contract has concluded?

**Ms Foster:** That's correct.

**Senator GALLAGHER:** So the investigation is done? Her work is complete?

**Ms Foster:** For the report that we tasked her to undertake.

**Senator GALLAGHER:** So you have the report?

**Ms Foster:** Yes.

**Senator GALLAGHER:** How long have you had the report?

**Ms Foster:** I received the report from Dr Thom on Thursday 27 January.

**Senator GALLAGHER:** When did it get provided to the Prime Minister?

**Ms Foster:** On Friday 28 January.

**Senator GALLAGHER:** It went to the Prime Minister's office?

**Ms Foster:** It went as a formal brief from the secretary to the Prime Minister.

**Senator GALLAGHER:** Mr Gaetjens sent it directly to the Prime Minister?

**Ms Foster:** Just in the normal—as an attachment to a brief. The way we would normally provide advice to the Prime Minister would be through a brief.

**Senator GALLAGHER:** Yes. So it had a covering brief, and then the report. But it went from the secretary to the PM, but that was just normal—it wasn't just a direct transfer to him individually? It could have gone through staff?

**Ms Foster:** In fact, from memory, we hand-delivered the brief and the report to the relevant adviser in the Prime Minister's office.

**Senator GALLAGHER:** Was that a senior adviser or a chief of staff? Presumably so.

**Ms Foster:** It was a senior adviser, from memory.

**Senator GALLAGHER:** So it was hand-delivered. That's not normally the way? Was that around limiting access to the report?

**Ms Foster:** We would do that sometimes when matters are particularly sensitive.

**Senator GALLAGHER:** Yes. That was on the 28th. So the government's had the report now for 16 or 17 days. Has Minister Tudge had the report?

**Senator Birmingham:** No, and that probably leads to an update that Ms Foster is providing in terms of what work has been undertaken to provide for the sharing of the report with Ms Miller and Mr Tudge. It requires a process with the participants in that inquiry. I will let Ms Foster detail that.

**Senator GALLAGHER:** So the Prime Minister's Office has had it for 17 days, but Minister Tudge hasn't had access to it and neither has Ms Miller?

**Ms Foster:** As part of the advice to the Prime Minister, we indicated that should the government wish to provide the report to the two parties—Ms Miller and Mr Tudge—then we should go through a process of consultation with those participants to the inquiry who provided confidential information to Dr Thom.

**Senator GALLAGHER:** So the last 17 days has been spent contacting the people who were interviewed as part of the inquiry to say to them, 'This report might be handed to both Minister Tudge and Ms Miller'?

**Ms Foster:** I was asked to take those steps of consultation, with a view to being able to provide it to the two parties, on 7 February. I sought some legal advice, we worked through the most appropriate way to do that and we sent it to the parties who had provided information on Friday last week.

**Senator Birmingham:** For clarity, Ms Foster, when you say 'we sent it to the parties'—

**Ms Foster:** Sorry, I should be precise. We sent to each person who had contributed information an extract of the information that they themselves had provided, not the entire report.

**Senator GALLAGHER:** How many is that? How many people are involved in that consultation process? I don't want names or anything.

**Senator Birmingham:** I know you don't, Senator, but I think it might be a relatively small number that—

**Senator GALLAGHER:** That could identify them?

**Senator Birmingham:** I think that could be a reasonable risk.

**Senator GALLAGHER:** What is the plan, going forward? You've got people who participated in the investigation currently considering the parts of the report that related to them. They have until when?

**Ms Foster:** They have until close of business Wednesday this week to respond. Of course, should anyone feel uncomfortable with that time frame we would take that on board. Assuming that I receive comments as planned, then I'll need to consider any arguments they put forward for any material not to be provided, and then make a decision about whether or not that is in the public interest.

**Senator GALLAGHER:** I understand Ms Miller did not take part in the Thom inquiry; is that correct?

**Ms Foster:** That's correct.

**Senator GALLAGHER:** Did Minister Tudge?

**Senator Birmingham:** I'm conscious of having limited disclosing the numbers or otherwise, but I think Mr Tudge has made public that he has cooperated with the processes. Relying on that public indication—and if I need to clarify that at all I will do so—I think you can take it that he has cooperated and engaged.

**Senator GALLAGHER:** The inquiry was commissioned because of allegations raised by Ms Miller. How could it be concluded satisfactorily without Ms Miller's involvement?

**Ms Foster:** Obviously, Dr Thom had available to her the statement that Ms Miller had made in parliament, which contained an amount of detail that Dr Thom could draw on. Both Dr Thom and the Commonwealth made a number of attempts to encourage Ms Miller to participate, but, as she has indicated publicly, she did not feel in a position to do so.

**Senator GALLAGHER:** Did she make suggestions on ways that she would feel able to participate that were unable to be accommodated? Is this where the impasse came?

**Ms Foster:** There were two issues, again, which Ms Miller had raised publicly. One related to the provision of a full report to her. It's possible that Dr Thom could have been provided with information that was critical to her decision-making that participants would not give her permission to release. The Commonwealth was able to advise Ms Miller that, to the extent that it was within the Commonwealth's power to release the report, it would, but that we had to be conscious that there may be third-party concerns to take into account. The second issue related to the capacity of Dr Thom to inquire into allegations of potentially criminal activity.

**Senator GALLAGHER:** And Ms Miller was unhappy with both of those.

**Ms Foster:** That's correct.

**Senator GALLAGHER:** So people have until close of business Wednesday to respond. What is the plan after that?

**Ms Foster:** As I said, I will need to consider whatever information I get back from those participants and then come to a decision on whether or not their concerns, if any concerns are raised about confidentiality, are outweighed by the public interest for which the report was initially commissioned.

**Senator Birmingham:** But as is self-evident from this process, Senator, the expectation that—subject to the privacy or legal provision considerations of the individuals who participated—the report will otherwise, including any conclusions or findings drawn by Dr Thom, be provided to both Ms Miller and Mr Tudge.

**Senator GALLAGHER:** Yes, but we're not sure when. It depends on the feedback.

**Ms Foster:** Yes. We're working as expeditiously as we can.

**Senator GALLAGHER:** Minister Tudge has been stood aside now for 74 or 75 days. I would imagine this is something the government wants to conclude, satisfactorily, soon.

**Ms Foster:** In the interests of—

**Senator Birmingham:** Yes, and in the interests of all parties. That's why the Prime Minister moved quickly in terms of having Mr Tudge stand aside, in terms of commissioning the inquiry and accepting the recommendations of Dr Thom as an appropriate individual and seeking to at least put in place these sorts of processes to try to give as much procedural fairness for participation of all parties and also ensure, given some of the lessons from the Jenkins review and from Ms Foster's work about the importance of a report being provided to complainants, that that actually occurs, as the PWSS would be undertaking in terms of their processes.

**Senator GALLAGHER:** What's the security around this report? If you've handed it to the Prime Minister's office, could there be a situation where Minister Tudge has access to that report? What safeguards are there around that?

**Senator Birmingham:** I think Ms Foster spoke of the way the document was transmitted—that, although it was transmitted in the formal processes of the brief, it was handled in a manner so as to limit the number of individuals involved. I can say that Mr Tudge has not had access to the report, other than the same process that has applied to any others who gave information to Dr Thom.

**Senator GALLAGHER:** And how can you guarantee that?

**Senator Birmingham:** That is the way in which the process has been handled to ensure the integrity and proper process around this.

**Senator GALLAGHER:** Okay. Well, two days ago Minister Tudge announced that he will recontest his seat. Are you saying there's no chance that he could have been advised even verbally around the contents of the report? It would seem to me that if he's made a decision about his future then he's feeling pretty confident about what that report might find.

**Senator Birmingham:** Well, as I said, Mr Tudge has not had access to the report. I can't speak for his response to media inquiries on those sorts of questions. That's obviously the response he has given, and they're matters for him.

**Senator GALLAGHER:** Have you been involved in this, Senator Birmingham? You're speaking with quite a bit of authority about knowing what's going on.

**Senator Birmingham:** No, I haven't. Only that—

**Senator GALLAGHER:** You're very confident.

**Senator Birmingham:** I have asked some of these questions essentially today, in expectation that you might be pursuing this issue.

**Senator GALLAGHER:** Okay. So, you're confident that he has not physically seen a copy of the report or verbally been briefed on its contents?

**Senator Birmingham:** I'm confident of that. I will, as I often do, undertake to update the committee if there's anything extra that needs to be provided.

**Senator GALLAGHER:** Has the Prime Minister read the report?

**Ms Foster:** The Prime Minister certainly had access to the report. It's my understanding that he's read it. But I would have to—

**Senator GALLAGHER:** You've been told that he's read it? If you've been advised, or you have an understanding, that must have come from somewhere.

**Ms Foster:** I think that would be something Senator Birmingham would have to check.

**Senator GALLAGHER:** But where did you get your understanding that he'd read it?

**Ms Foster:** That's why I'm hesitating as I answer. It's my understanding from his office that he's been briefed on the report and that he's had the report available to him.



**Senator GALLAGHER:** The previous investigation into a similar matter by the law firm Sparke Helmore cost the taxpayers \$40,000. And then the Thom inquiry has an upper limit of \$44,000. That is \$84,000 on the conduct of one minister. That's a fair bit of cash, isn't it, Minister Birmingham?

**Senator Birmingham:** Yes, but the government understands the need to provide for independent and proper processes around such allegations when they're made. The former inquiry was undertaken by my department as part of their normal processes under the previous architecture of responding to workplace complaints. Obviously, new architecture has since been put in place, moving forward, for complaints across the parliament through the PWSS. The latter review was initiated, as you've worked through here, following the additional statement made back on 2 December by Ms Miller.

**Senator GALLAGHER:** Are you aware of any other conduct issues relating to Minister Tudge, aside from these? Have any other reports of concerning behaviour been made around Minister Tudge, to your knowledge?

**Senator Birmingham:** No, I don't believe so.

**Senator GALLAGHER:** If the Prime Minister is aware, or has read the report, has he made a—

**Senator Birmingham:** I should say—if Finance were here they'd pull me up at that point—that staff matters that go to Finance are not brought to my attention. I'll just put that caveat there. No more would I be aware of it if it was in relation to any other senator's or member's office.

**Senator GALLAGHER:** Is your evidence today that Mr Morrison has not spoken to Minister Tudge about the report that he's in receipt of?

**Senator Birmingham:** My understanding is that the contents of the report have not been shared with Mr Tudge, other than the process that Ms Foster has advised in relation to all participants in the review being treated on equal terms.

**Senator GALLAGHER:** I think that almost answered the question, but I really want an answer on whether Mr Morrison has discussed the Thom inquiry with Mr Tudge. Since 28 January, when he was given a copy, can you confidently tell the committee that there has not been a single discussion between the two of them, over the last 17 days? I think many people would find that pretty hard to believe, frankly.

**Senator Birmingham:** I will double-check in relation to procedural matters. I'm confident in terms of the advice I've received that there's not been a discussion in relation to content or a sharing of content. Ms Foster may have information in terms of procedural matters. There has obviously been engagement with Mr Tudge or his lawyers in terms of the checking process around content. Whether that has entailed any other advice about procedure, I will leave for Ms Foster.

**Ms Foster:** The only contact I'm aware of is the formal process that we have gone through to provide Mr Tudge, as a participant, with information.

**Senator GALLAGHER:** So he's got bits of the report where he contributed.

**Ms Foster:** Only the information that he provided.

**Senator GALLAGHER:** In the brief to the Prime Minister's office or the Prime Minister, did you make it clear that this report should not be shared ahead of time? In a sense, you've provided it to the Prime Minister while it's not yet finalised, which is unusual in itself, isn't it? There was a final report, except you had to undertake this further consultation, so why wouldn't you have briefed the Prime Minister, once those were complete, with the finalised copy of the report? What was the need to get it to him before that was finished?

**Ms Foster:** Dr Thom, as I said, had completed the report that we had asked her to do, which was to inquire into the allegations made by Ms Miller on 2 December. The provision of that report to the participants is a further step.

**Senator GALLAGHER:** So your evidence there is that it's not going to change the report?

**Ms Foster:** That's correct.

**Senator GALLAGHER:** The report still stands?

**Ms Foster:** Dr Thom has provided her report, and we are now going through a process of consultation to enable us to provide that report to the two parties.

**Senator GALLAGHER:** So the report to the Prime Minister is finalised, but then there might be a redacted report that might end up in the hands of Mr Tudge and Ms Miller?

**Ms Foster:** It obviously depends on the responses we get from participants as to whether or not the full report can be provided, which is clearly the preference in a case like this.

**Senator GALLAGHER:** As I finish here, can I have a clear answer on whether the Prime Minister or his office are aware of any other allegations or complaints about Mr Tudge's behaviour?

**Senator Birmingham:** Not to my knowledge.

**Ms Foster:** And not to my knowledge. Senator, I have a total figure for Dr Thom's bill. It's \$40,047.93.

**Senator GALLAGHER:** So it's \$80,000 all up for the two inquiries into Minister Tudge's conduct with Ms Miller. That's a lot of money to spend on ministers' conduct.

**Senator Birmingham:** Finance has undertaken a number of such investigations over the years in response to allegations by staff. That function will now occur through the Parliamentary Workplace Support Service at arm's length from Finance or a department of state in that regard. The thorough and independent investigation of such allegations is a necessary but not free exercise of trying to provide for proper process and due consideration of those allegations.

**Senator GALLAGHER:** You mentioned Minister Tudge's legal representatives being consulted over the contributions et cetera, so, presumably, they are being paid for by the Commonwealth.

**Senator Birmingham:** I'd suggest that the Attorney-General's Department would be the best place to answer that question. I'm actually not sure that I have a briefing on that, and AGD handle matters in relation to legal payments around ministers. Members of parliament all have access to certain insurance arrangements as well, through the Department of Finance, but they're handled more directly by the insurer. So I'd suggest that AGD is best placed to respond on that.

**Senator GALLAGHER:** Finally, on the Tudge matter, is it envisaged that there will be an answer about his ministerial duties? The department of education has had an acting minister now for 2½ months. Is it envisaged that the government will resolve this this side of the election?

**Senator Birmingham:** I'm sure that is the hope of the Prime Minister and Minister Tudge, but I wouldn't want to pre-empt that. Obviously, that depends upon the content of the report and the consideration of that by the Prime Minister.

**Senator GALLAGHER:** Presumably, it's not a report that would necessarily be released in full, but is there any view about making the findings of the report public?

**Senator Birmingham:** The report's been undertaken with the intent that as much of it as possible is provided to Ms Miller and Mr Tudge. Obviously, when a decision is made around Mr Tudge and his return to the ministry, a statement will presumably have to be made at that stage about the circumstances of that decision. I would imagine that statement will at least draw upon the findings. But the report itself is one for Ms Miller and Mr Tudge in terms of the procedural fairness.

**Senator GALLAGHER:** So it remains to be seen what happens but there is no commitment to deal with it this side of the election?

**Ms Foster:** I am obviously progressing the work as expeditiously as I can.

**Senator GALLAGHER:** Last week in the Senate, the government voted not to exempt the Religious Discrimination Bill—

**Senator Birmingham:** Sorry, can I give one update if you are changing topics, just to confirm, as I indicated, the Prime Minister's chief of staff, John Kunkel, contacted Ms Miller on 2 December, as you asked about. I'm advised the phone call was made to indicate to her that the Prime Minister will shortly make a statement on matters that she had raised publicly.

**Senator GALLAGHER:** Moving topics, on the religious discrimination bills, the government voted not to exempt the bills from the cut-off and made no attempt to delist those bills for debate. Why didn't the government want to debate the bills in the Senate last Thursday?

**Senator Birmingham:** The first part of your statement there is incorrect. The government didn't seek to call the division—

**Senator GALLAGHER:** You didn't vote at all. I was watching.

**Senator Birmingham:** The government moved a motion.

**Senator GALLAGHER:** I know! It is almost worse though, isn't it? You moved the motion and then went 'Oh, we're not calling the vote. We will let you go away and look like we were supporting it when we weren't.'

**Senator Birmingham:** We did not seek to call the division on that. The Prime Minister has publicly addressed the fact that the government is not in a position where it wishes to progress that legislative package as amended by the House.

**Senator GALLAGHER:** There have been differing statements around the future of those bills. What is the government's position on the religious discrimination bills? Will they be dealt with in this parliamentary term or will they not?

**Senator Birmingham:** The position that has been outlined—that the government doesn't wish to proceed with the bills as they have been amended—will stand through the remaining couple of sitting days.

**Senator GALLAGHER:** So that's a 'we will not proceed with the bills'. Can you explain to me why the Prime Minister won't accept a majority position of the House of Representatives, including five members of his own party, and accept the amendment so that all children can be protected from discrimination?

**Senator Birmingham:** It's for the government, in government business, to prioritise legislation and to consider the impacts of any amendments in either chamber. I believe the PM and the A-G have identified concerns about unintended consequences from some of those amendments, and that's the basis upon which the government is proceeding with caution from here.

**Senator GALLAGHER:** Okay, so the government's position, as it is today, is that those bills, as amended, will not be proceeded with during this parliamentary term?

**Senator Birmingham:** That would be my expectation.

**Senator GALLAGHER:** That is your expectation but has there been a decision of the government?

**Senator Birmingham:** We always review the sitting program and the legislative program for each sitting as we work through those time lines. Obviously, the government didn't proceed with the bills on Thursday. I don't expect that we will in the Senate. When the Senate returns in the budget week, there will be other priorities associated with the budget for us to get on with.

**Senator GALLAGHER:** There was an extraordinary cabinet leak published in the *Australian* by PVO, as everybody calls him,—Mr Onselen. In that piece you were mentioned, Senator Birmingham. Have you seen the story? It's where it's alleged—

**CHAIR:** I wasn't sure if there was a question there.

**Senator Birmingham:** I was waiting.

**Senator GALLAGHER:** You were mentioned in that piece. It's about the Prime Minister's plan to secure votes for the Religious Discrimination Bill by linking it to a new anticorruption bill. It's said in the piece that you were supportive of that approach. Is that a correct assessment of your role in that meeting?

**Senator Birmingham:** In earthshattering news, I'm not going to go into what I or other colleagues say in cabinet discussions. In relation to the Commonwealth Integrity Commission Bill, the responses remain the same as they were when I was discussing this with Senator Waters earlier today—which I think you were in the room for, so I'll try to restrain myself from repeating those responses right now.

**Senator GALLAGHER:** Ms Foster, I think your evidence was that the last time you briefed the Prime Minister on an anticorruption commission was on 10 February this year. I think that was the date you gave.

**Ms Foster:** I think that's correct.

**Senator GALLAGHER:** Was that a request from the Prime Minister's office or was it a brief you had prepared on your own initiative?

**Mr Reid:** No, that was just in order to update the Prime Minister ahead of the sittings in the usual way.

**Senator GALLAGHER:** Okay. So every sittings you probably have briefed him about an anticorruption commission and where it might be heading?

**Mr Reid:** We have a brief that we maintain and we update.

**Senator GALLAGHER:** Minister, in the article about the leaked cabinet information, it says that Mr Fletcher was a strong opponent of the Prime Minister's plan and was particularly concerned about retrospectivity. Why would that be? Did it have anything to do with Leppington Triangle?

**Senator Birmingham:** I'll dissect your question. On part 1, in relation to Mr Fletcher or any other member of cabinet, I'm not going to comment on deliberations that might occur within the cabinet. On part 2, in relation to the insinuation you make about Leppington Triangle and those matters, I think they have been very thoroughly addressed, including making quite clear the role of departments in relation to those decisions and the fact that there has been no suggestion of any wrongdoing by Minister Fletcher in that regard.

**Senator GALLAGHER:** In relation to the cabinet leak, is there an investigation underway or is this another one of the leaks that nobody thinks is an issue?

**Senator Birmingham:** Again, much is written by newspapers speculating about who said what where and when.

**Senator GALLAGHER:** I think everybody would accept it was too detailed to be made up.

**Senator Birmingham:** I'm just saying that in terms of the job of focusing on serious matters of state there's more to be done than worrying about the odd story in a newspaper.

**Senator GALLAGHER:** So the answer is there is no investigation into the leak from cabinet?

**Senator Birmingham:** Not to my knowledge.

**Senator GALLAGHER:** Why not?

**Senator Birmingham:** Because there are better things to do with our time.

**Senator GALLAGHER:** Than find out who's inside the tent leaking out?

**Senator Birmingham:** Than responding to anonymous comments in newspaper stories.

**Senator GALLAGHER:** Can you say it's not true?

**Senator Birmingham:** I think Australians would rather that we focused on our economic plan; on jobs growth; on the national security challenges faced in our region and, of course, in Ukraine; on the continued COVID recovery; and on a range of issues that are at the top of the government's priorities.

**Senator GALLAGHER:** I'd love to believe that were true, Minister Birmingham, but after the last few months of this government—

**Senator Birmingham:** You're the one who seems to be spending a lot of the day focusing on other issues.

**Senator GALLAGHER:** I cannot believe that that is actually what's front of mind for this government. Why is there not an investigation into a cabinet leak? Is it lawful to leak cabinet information? Ms Foster, is it lawful to leak cabinet information? It's not, is it?

**Senator Birmingham:** You're talking about a newspaper story—

**Senator GALLAGHER:** Tell us it didn't happen, then.

**Senator Birmingham:** On the one hand, Senator, you're trying to suggest that people shouldn't be talking about cabinet discussions, and on the next you are trying to invite me to talk about cabinet discussions.

**Senator GALLAGHER:** No, I'm just—

**Senator Birmingham:** I have been clear throughout this line of questioning: I'm not going to go into what was said in cabinet. That means neither confirming nor denying stories like that. The fact that there are stories that seek to report what cabinet might or might not have talked about, or what ministers might or might not have said, is as old as the existence of this federation and, indeed, older than that. It's nothing new that—

**Senator GALLAGHER:** So it's a free-for-all now, is it? Basically, anyone can say anything, and nobody's going to—

**Senator Birmingham:** No, that's not what I'm suggesting. I'm just pointing out that if you want me to go away and find stories about what was allegedly said in cabinet during the government of prime ministers Rudd, Gillard, Hawke or Keating—why don't we go back and have a look at Prime Minister Watson, Reid or Barton—

**Senator GALLAGHER:** I'm asking about this government and the dysfunction that grips you. You've got leaked text messages—

**Senator Birmingham:** Do we have a question?

**Senator GALLAGHER:** you've got people crossing the floor, you've got cabinet leaks and your position is: 'Oh well. Whatever!'

**Senator Birmingham:** We've got the YouTube clip. Do we have a question now?

**Senator GALLAGHER:** Has Mr Gaetjens been asked to take any action in relation to the leak—any action at all, even if it's not an investigation? Anything?

**Senator Birmingham:** Not to my knowledge.

**Senator GALLAGHER:** Ms Foster, are your officials able to leak information without consequence?

**Senator Birmingham:** That sounds like a hypothetical question to me.

**CHAIR:** Incredibly so.

**Senator GALLAGHER:** I would imagine people get trained in the Public Service about what they can and can't do when they are privy to cabinet discussions. It seems that ministers have a rule for themselves, which is to feel free to leak away—there will be no consequence.

**Senator Birmingham:** As I said before, if you want me to go back over the archives of newspaper stories that reference what may or may not have been said in cabinet discussions, I think you'll find they probably exist for every cabinet throughout the nation's entire history of federation, and for most other cabinets in democratic systems too.

**Senator GALLAGHER:** This is not a hypothetical point. Ms Foster, are there laws against leaking cabinet information?

**Ms Foster:** I am hesitating and I've just asked for some advice on what particular laws might be in play in the context of cabinet material.

**Senator GALLAGHER:** Are you not aware if there are?

**Ms Foster:** I'm just wanting to make sure that my answer is accurate.

**Senator GALLAGHER:** Mr Reid, can you illuminate us?

**Mr Reid:** I'm loath to try to address it from the table.

**Senator GALLAGHER:** I can understand why.

**Mr Reid:** We'd be happy to take that on notice.

**CHAIR:** As is your right.

**Senator GALLAGHER:** Why was the Prime Minister prepared to back an anticorruption commission in exchange for passage of the Religious Discrimination Bill but won't back one on its own?

**Senator Birmingham:** As I outlined in response to Senator Waters early today, the government's view is that we have developed a comprehensive model for a Commonwealth Integrity Commission. There are 700 pages of legislation with an umbrella structure that seeks to fold into the structure the many different entities that already exist across the Commonwealth to tackle corruption issues. That structure entails a law enforcement integrity division and the public service sector integrity division. We would welcome the opportunity to pass that legislation, which the Prime Minister has tabled in the House of Representatives previously. However, we're aware of the fact that on the couple of pages of dot points that the Labor Party has as an alternate model, or the views of the Greens—which is a little bit more developed, to give Senator Waters her credit—they all seek to turn that into something more akin to a New South Wales style Star Chamber or kangaroo court of their ICAC. The government does not believe that that would be a positive outcome for the nation. That's why we're not seeking to proceed with putting the legislation through the parliament at present, because we're not willing to have that potential consequence.

**Senator AYRES:** I bet you're not!

**Senator GALLAGHER:** Yes.

**Senator Birmingham:** We would welcome the opportunity to put the model, as we've thoughtfully designed—

**Senator GALLAGHER:** But nobody supports.

**Senator Birmingham:** with extensive consultation through the parliament.

**Senator AYRES:** This is the Fletcher-Taylor-McKenzie approved model!

**Senator GALLAGHER:** Dr Kunkel must have reached out to you around the information you provided on the conversation with Ms Miller. If you have him on a hotline, are you able to tell us whether the Prime Minister or the PMO are aware of any other complaints about Mr Tudge's behaviour? Perhaps we could get an answer on that before we adjourn. You get some pretty quick information when you need to. I'd like an answer to that.

**Senator Birmingham:** As I said before, not to my knowledge.

**Senator GALLAGHER:** Dr Kunkel might know something different.

**Senator Birmingham:** I'm sure if something needs updating then I'll be provided with it to update the inquiry.

**CHAIR:** Ms Foster, I understand that you have a couple of responses to provide the committee before we move to the APSC.

**Ms Foster:** Just one. Mr Brazier undertook to update the number of Australians in Ukraine who have registered for consular assistance. Obviously the number's changing rapidly in response to the situation on the

ground. It fluctuates daily, depending on travel and departures and new registrations. The figure that he provided this morning had been updated, had been overtaken. And the true figure as at 10 this morning is 198.

**CHAIR:** Thank you very much, Ms Foster.

**Senator AYRES:** That's a bigger number than this morning. Does that mean more people have registered?

**Ms Foster:** As I said, there are a number of factors which are influencing the figures. Registrations are clearly increasing as the situation becomes more complex.

**Senator AYRES:** On notice, would the department be able to provide a breakdown of, in the last few weeks, the number of registrations and the number of people departing?

**Senator Birmingham:** That is probably best placed with DFAT, who can probably take you through some of that when they appear on Wednesday.

**Senator AYRES:** Sure. Thank you.

**CHAIR:** Thank you very much to the Department of the Prime Minister and Cabinet and those officials who have appeared in relation to the first outcomes that we've traversed today.

### Australian Public Service Commission

[18:04]

**CHAIR:** I welcome Mr Peter Woolcott AO, the Australian Public Service Commissioner, and other officers of the Australian Public Service Commission. Mr Woolcott, if you have an opening statement, we might ask that you table it, in the interests of time, because we're a little late this evening.

**Mr Woolcott:** Thank you, Madam Chair. The good news is that I don't.

**CHAIR:** Wonderful. We just have Senator Waters with a few questions for you this evening.

**Senator WATERS:** Thanks, Mr Woolcott and all of your team members. I've got two tranches of questions. The second chunk are actually for the PWSS, who I understood were potentially appearing under this current section. I'll seek advice on that.

**Mr Woolcott:** I can clarify for you, Senator. I'm here this afternoon as the Public Service Commissioner, which is one of the independent statutory offices that I hold. I also hold the role of Parliamentary Service Commissioner, which is the accountable authority for the PWSS. That is another independent hat that I wear.

**Senator WATERS:** I see. So you can take questions about that?

**Mr Woolcott:** I'm happy to take questions on that, but it needs to be compartmentalised very much from my role as the Public Service Commissioner.

**Senator WATERS:** Thank you. I can manage that.

**Senator Birmingham:** For management of that, as well, I'll just flag that while we're working with Mr Woolcott as the Public Service Commissioner I'll stay at the table. If we're transitioning to the Parliamentary Service Commissioner, I'll exit, which I would need to do when the Official Secretary to the GG comes on board anyway, so that the independence of the Parliamentary Service Commissioner is not tainted by my presence.

**Senator WATERS:** I shall give you forewarning, Senator Birmingham. We'll start off, Mr Woolcott, with your chief duties as APSC. Have you had the chance to review the Senate committee's report into the current capabilities of the APS? I understand some other members of this committee also participated in that inquiry.

**Mr Woolcott:** Obviously, I'm familiar with that report. I've read that report. The government's response is due on 25 February, if I'm not mistaken. As I say, the government's response is under active consideration, and obviously the APSC is doing a lot of work on that on areas that are relevant to us.

**Senator WATERS:** Are the findings and recommendations consistent with the earlier Thodey review, in your opinion?

**Mr Woolcott:** They run to many different areas, and, as you would know, Senator, there is a dissenting report from coalition members of that committee. It's got a heavy focus, of course, on capability. So did Thodey, but the government has been very active in pursuing the Thodey agenda, as you know. The Thodey report was reviewed by government, on the advice of Secretaries Board, and the government accepted a great majority, either in full or in part, of the Thodey review recommendations. The APSC have responsibility for about 14 of those, which we are actively pursuing. Many of them do go to capability, but I wouldn't want to prejudge the government's response to the committee's report.

**Senator WATERS:** Have you met with the minister to discuss the most recent Senate committee report?

**Mr Woolcott:** No.

**Senator WATERS:** Have any actions been taken in response to the Senate committee's recommendations, to date?

**Mr Woolcott:** To date, no.

**Senator WATERS:** Not yet?

**Mr Woolcott:** No. As I say, we're waiting for a whole-of-government response to the committee's report.

**Senator WATERS:** What action, if any, is being taken to prioritise in-house capacity building over external labour hire?

**Mr Woolcott:** It's a process. Clearly, to remain competitive for talent, to remain a capable Public Service for the future and to be able to deliver for Australians and for the government of the day, that is a huge focus of our attention. You can look at any range of things that we're doing as the APSC. I'm happy to table a report on exactly what we are doing. It goes to the development of a workforce strategy; it goes to the establishment of the APS Academy, which is one part of a much larger piece of work around the learning and development strategy, an action plan for that and the establishment of a learning board; and it goes to the establishment of the APS professions model—how do you get your digital talent? How do you get your data talent? How do you develop strategic HR resources to be able to maintain a public service which is going to work into the future? There are a whole range of things we are doing which we've commenced. They take time, but we are very cognisant of the need to be a Public Service which is able to adjust and have the capability for the future. It's a fast-moving environment out there, and one of the things we're finding around digital and data, for example, is just how fiercely competitive it is for talent with the private sector.

**Senator WATERS:** Are you able to provide us today with the latest figures on the amount spent on external consultancies in 2021, either as a total or a percentage of overall expenditure?

**Mr Woolcott:** I don't have that information. We're responsible for the Australian Public Service. The Department of Finance is responsible, under the PGPA Act, for contractors and labour hire, so those are questions best put to the Department of Finance.

**Senator WATERS:** Maybe I will just take it up with them, if you can't add anything to that about the diminishing numbers, sadly, of the Public Service.

The 2022 intake of graduates has recently commenced. Based on current figures, does this year's intake have greater or lesser prospects of long-term job security within APS than graduates five or 10 years ago, in your opinion?

**Mr Woolcott:** I might ask—

**Senator Birmingham:** I'm not sure about a question that concludes with 'in your opinion'.

**Senator WATERS:** I was speaking respectfully. You can drop that bit, if you like.

**Senator Birmingham:** We'll take it as 'is the claim you've made a fact or not'. I'm not quite sure I can see how it would be.

**Mr Woolcott:** I might ask my first assistant commissioner, Rina Bruinsma, to respond to that question as best she can. It's a bit speculative and I'm not sure we have data about that.

**Ms Bruinsma:** I don't think we've got longitudinal data that could answer that question.

**Senator WATERS:** Is that because you've been hollowed out so much you don't have the people to keep the data?

**Ms Bruinsma:** We have data on the intakes of the graduates, but we don't actually track the graduates in their various different agencies across their careers.

**Senator WATERS:** Does no other body track that either?

**Ms Bruinsma:** Individual agencies are likely to track their own agency, but there's no whole-of-government tracking on individual graduates.

**Senator WATERS:** And it's not your role to look at the long-term job security of public servants? It's a genuine question. I don't know the answer.

**Senator Birmingham:** I think it's important to distinguish between job security and length of tenure. The two are not one and the same. Across modern workforces, people are more mobile today, in terms of their jobs and their length of tenure in any job, than they were in past generations.

**Senator WATERS:** Pardon me for interrupting, but I'm talking about within the Public Service, given the vast number of sackings that has occurred in the last decade.

**Senator Birmingham:** I don't accept that term or appraisal. I'm just making the point that people today are more mobile in jobs than they used to be. I don't think we should assume that people attracted to graduate positions in the Australian Public Service are going to be exempt from that global trend towards increased mobility.

**Mr Woolcott:** What I can say is that we're doing an awful lot of work at the moment around how to focus on attraction of the talent as graduates. We've got big brand names like Department of Defence, Prime Minister and Cabinet, Foreign Affairs and Treasury, but at the same time we're looking to centralise recruitment on an opt-in basis wherever it makes sense. For example, the Australian Bureau of Statistics now recruits for the whole Commonwealth on an opt-in basis for data graduates. DTA does and now APSC manages that for digital graduates and new starters as well. We're also looking at Treasury to do the same for economists. We're looking for Tax to do the same thing for HR specialists. There are a whole range of areas that we're looking to start to centralise in terms of bringing in talent on behalf of the whole Commonwealth. I do recall seeing data somewhere about how long people, traditionally, stay in the Public Service. I don't have that information at the tip of my fingers, but I'll take that one on notice.

**Senator WATERS:** Thank you, that's great.

**Mr Woolcott:** I'd just like to reinforce what the minister said. I think the future of the Public Service is a more porous public service, where people do move in and out—they might go to not-for-profits; they might go to the private sector—and I actually think that's a positive thing, because they're going to learn new skills and they're going to bring that back into the Public Service. The important thing is to have that mobility backwards and forwards. That's not something we've been particularly good at in the past, and it's something that we are giving a lot of thought to. We recently established, at the direction of the Secretaries Board, a future work subcommittee of the Secretaries Board, which is looking at all these issues, from flexible work to recruitment to how we attract and retain the staff that we need. As I say, it's a pretty fluid world out there and it's pretty competitive for staff—you see what the unemployment rate is at the moment—and, for talent, we've just got to be competitive. It's a fast-moving environment, and the issues are becoming more complex and more demanding right across the board. So it is a challenge for us and it'll be a challenge for any future government as well.

**Senator WATERS:** The Thodey review identified the relationship between APS and ministerial staff as an issue. I note that last week Brittany Higgins also said the 'upstairs, downstairs' arrangements—where young, inexperienced ministerial advisers had more influence than long-term departmental staff—was problematic. I agree with that assessment. Is this an issue that you've discussed with the Prime Minister's office or PM&C, or with anyone, for that matter, as an area for reform?

**Mr Woolcott:** It's a very real issue. I think the relationship between the Australian Public Service and ministers and their offices is, in part, an unfinished piece of business for us. When the relationship works well—when a minister, his office and his department or agency work well together—that is where you see governance at its best. When it doesn't work so well is when you see problems emerge.

We've set up a reference panel in the APSC, which I think has been a very interesting innovation. The reference panel includes Tony Nutt, who'll be well known to the coalition members of this committee; Ben Hubbard, who will be well known to the Labor members of this committee, as a former chief of staff to Julia Gillard; Wayne Eagleson, the chief of staff to two prime ministers in New Zealand for a long period of time—John Key and Bill English; Rachael Thompson, the minister's chief of staff; and Stephanie Foster, who was at the table before me.

This committee is looking at the whole question: how do you best develop educative material which will help the Public Service deal with the ministers' offices? That includes training courses—which we're now starting to run in the APS Academy—about how to work with the ministerial office, what the operational environment is like in a minister's office, what the pressures are like in a minister's office, and what the lines are. We now plan to flip this after the election to actually also look to train MOP staff—both government staff and opposition staff—in how to work with the Public Service, how to get the best out of the Public Service and where the lines are.

I agree with you completely, and I agree with Thodey, that this is an important piece of work. It's still in its infancy but I'm really encouraged by the quality of the reference panel and the quality of the work that we're starting to do here.

**Senator WATERS:** I'm interested in when that reference panel was established.

**Mr Woolcott:** I might take the date on notice, but it's been over a year. It's been there for a while now and, as I say, the panel has also been working on a whole lot of reference material around DLOs and how they should



work, in transition to a new minister but also in transition to a new government. And there's a lot of material that will eventually be produced which will come up on our website.

**Senator Birmingham:** I was tempted to make the point—and now you've asked for the time line—that in terms of Mr Woolcott's reference to my outstanding chief of staff, Ms Thompson, she was asked onto that panel, not with any engagement via me, by Mr Woolcott or others whilst I was still the trade minister. It was reflective of her experience as a MOP(S) Act employee and a government chief of staff with engagement with the Public Service, not because now she happens to be the chief of staff to the Minister for Finance.

**Mr Woolcott:** I should probably add, for clarity, that the reference panel was put together by me, not by anyone else.

**Mr Hetherington:** The reference panel was established in September 2020—if that helps to not provide it on notice.

**Senator WATERS:** Thank you. I have one last question on this issue before we move to the Parliamentary Workplace Support Service. The Thodey review recommended a legislative code of conduct for ministerial staff. Obviously there's some work being done on that code of conduct in a different context at the minute, but is seeking and having regard to the advice of the APS something that could be included in that code for ministers and ministerial staff coming out of the *Set the standard* report? Is that on anyone's radar; is that being contemplated?

**Mr Woolcott:** That would be a matter for government. I might leave that to Minister Birmingham to comment on.

**Senator Birmingham:** I think work around codes of conduct and processes around those now is going to be intrinsically linked to the joint select committee that the Senate agreed last week to establish and that I trust that the House will this week agree to establish, if it hasn't already. And as part of that response I think we would expect, given that Commissioner Jenkins outlined the need not just for a code of conduct for members of parliament but a series of codes such that there's an overlap there with Thodey work, that that should be considered as part of that process.

**Senator WATERS:** I want to ask some overall questions about the Parliamentary Workplace Support Service. Minister, I think you wanted to absent yourself for this part of the program.

**Mr Woolcott:** Perhaps I could ask Meg Brighton to join us. She's in the other room. She's head of the PWSS.

**Senator WATERS:** Thank you. And, Chair, sorry, this is taking a little longer than I anticipated, but I am confident that this next part will be brief.

**CHAIR:** There is one thing I did want to check. Obviously, as Mr Woolcott's identified, he sort of wears two hats, and we know that Minister Birmingham is currently on his way out, and, I wonder whether, indicative of those two hats, we need to have the President of the Senate here for the Public Service Commissioner to sit here in his capacity as Parliamentary Service Commissioner.

**Senator WATERS:** I'm not sure. I don't have any questions for the President in his capacity as the President, and I'm hopeful that the officers will be able to either answer or take the questions on notice. But I'm in the hands of others in terms of the procedure that's appropriate.

**CHAIR:** Okay. Let's carry on with you asking those questions, Senator Waters, and if we find ourselves in a tricky situation and we need to call for the President, then we will.

**Senator WATERS:** Thank you. And thanks for joining us, Ms Brighton. Without going into anyone's identity or in any way impugning the process, I'm interested in how the PWSS is operating and how many people are using it. Has it been well received? Has it been embraced?

**Ms Brighton:** The service, like any new service, is still in its early days. Overall the reception has been incredibly positive in the engagement we have been doing across parliamentarians and their offices as well as with the MOP employees themselves, be it through staff forums or consultative groups. One of the things about the PWSS is that we've got this very strong commitment to confidentiality. In order to instil confidence in the PWSS, we are not in a position to share the detailed numbers. What I can say is that I have seen an incremental increase over time since this started. The numbers are reasonably consistent with what I would expect for an early service, and we are finding a strong number of referrals from clients who have had an experience with the service and have told their story to other staff members in Parliament House, including parliamentarians, and then we've had further referrals from that.

**Senator WATERS:** It sounds like the service is working and instilling confidence in people, who then are using it. Perhaps I'll ask the question in a different way. Do you have the resources that you need in order to deal with the number of people who are reaching out for your help?

**Ms Brighton:** We do have the resources we need. One of the things that's really important about this service is that we run a 24-hours-a-day, seven-days-a-week service. It means we have our trauma informed counsellors, social workers, and others from related disciplines available on the phone whenever someone needs to talk to us. We will need to do a review of the service, about how we're tracking and how the resources are going. But at the moment we've got what we need.

**Senator WATERS:** Is that a regular review?

**Ms Brighton:** I keep a very close eye on what our rostering looks like, what our intake looks like. Then, as things develop and as we do the work around the *Set the standard* report and the consideration that parliament will give to its implementation, that will be another opportunity for us to revisit those issues of resourcing and capacity.

**Mr Woolcott:** There's no doubt that the Jenkins *Set the standard* report has plans to grow the PWSS. That's obviously a matter for the parliament as to how that happens. But there will be resourcing questions.

**Senator WATERS:** At that point.

**Mr Woolcott:** At that point.

**Senator WATERS:** Yes. Thank you. I was just about to go there. So will PWSS be involved in the development of a code of conduct for parliamentarians, which is of course also recommended under *Set the standard*?

**Mr Woolcott:** I think that would be a matter for the parliament itself. The PWSS plays a role in a number of the working groups around the independent complaints mechanism, but the wider policy issues will need to be addressed by the parliament.

**Senator WATERS:** Alright. We'll think on that as a joint select committee of folk to inquire into that. Lastly, I want to get some clarity about scope. Elections obviously attract a whole lot of volunteers who want to deliver a better future for all of us. Will PWSS have scope to take calls from volunteers? Or is it limited to just MOP staff?

**Ms Brighton:** We have found that, as a trauma informed service, when someone calls us for help, we're not exercising our trauma informed capability if we say, 'You've come to the wrong place.' So what we are doing is—technically the service was set up to support MOP(S) Act employees and parliamentarians—

**Mr Woolcott:** After a certain date.

**Ms Brighton:** After 18 May, 2019. Thank you, Commissioner. But, when we have calls from people who maybe don't fit that definition, our social workers and counsellors will talk it through with a person, provide them immediate supports and then look to what is the best place that we need to—help them land.

**Senator WATERS:** Alright. I'm pleased to hear that. Thank you for your time. I would ask more but I feel like I'm getting the hurry-along so I'll call it.

**CHAIR:** You are. Well identified. Thank you, Senator Waters. That concludes our examination of the APSC. Thank you very much for coming along this evening.

#### **Office of the Official Secretary to the Governor-General**

[18:27]

**CHAIR:** I welcome Mr Paul Singer, Official Secretary to the Governor-General, and officers of the Office of the Official Secretary to the Governor-General. Mr Singer, in the interests of time, I might ask you to table your opening statement, if you have one.

**Mr Singer:** Very happy to do so, Chair. In doing so, very briefly, I'd just like to put on the public record my appreciation and admiration for the staff at the office, who have done an outstanding job in supporting their excellencies over the last 2½ years. On indulgence, I just put that on the public record.

**CHAIR:** Thank you very much. Senator Ayres.

**Senator AYRES:** Welcome, Mr Singer. We've opted to deal with your office now, rather than keep you here into the evening. So I'm going to try to shorten my line of questions, and let's see how we go. I saw today that there has been a six-figure settlement that the Morrison government has reached with three of the six women who made complaints about former justice Dyson Heydon. I think Justice Kiefel said about 18 months ago—so it has been a long process: 'We're ashamed that this could have happened at the High Court of Australia. We have made a sincere apology to the six women whose complaints were borne out. We know it would have been difficult to

come forward. Their accounts of their experiences at the time have been believed.' Does Mr Heydon retain the award of the Companion of the Order of Australia?

**Mr Singer:** As you're aware, he was appointed a Companion of the Order, I think, in 2004.

**Senator AYRES:** Yes.

**Mr Singer:** I'm aware of the statement that was released by the Attorney-General earlier today in relation to this matter. And, of course, I would like to ensure that the Council for the Order of Australia has the opportunity to fully consider this in the context of its terminations and cancellations and I expect when it next meets that will be on the agenda of items to consider.

**Senator AYRES:** So it's next on the agenda. We've traversed similar matters before in previous hearings. The Prime Minister said on 23 June 2020—around the same time, I think, as Her Honour issued the statement that I just read to you:

As you know, people's awards and honours, if those processes end in a place where people have, where those allegations have been upheld, then there's a normal process for honours to be dealt with at that time ... There should be a proper process to deal with this. There will be ... And on that basis, I would expect those processes to do their job.

So the statement by Her Honour 18 months ago wasn't sufficient to have the matter listed before the council? Is that right?

**Mr Singer:** I think, as we've discussed previously, the council keeps a very close eye on all of these events as they unfold. The fact that there's been an announcement of the settlement today is, I think, important in terms of the milestones around these processes. As we've discussed previously, there are a number of provisions available within the constitution for the council to consider a recommendation for either a cancellation or a termination. Whilst I can't speak to the specifics of this circumstance, or pre-empt the council's decision, it's important that the council has the opportunity to fully consider it in light of today's settlement.

**Senator AYRES:** Those matters that we discussed at previous estimates, where there have been either convictions or findings in the child sexual abuse royal commission about individuals who received honours—have any of those people had their honours removed by the council?

**Mr Singer:** There's one particular example that you and I have spoken about on a number of occasions in relation to Mr Howell, who is deceased—

**Senator AYRES:** I remember we went around in circles about whether or not somebody who was deceased held an honour or not.

**Mr Singer:** To assist you, the point where we came out on that is that the constitution is quite clear, under section 25(2)(a), that a person ceases to be a member of the order upon their death. There is a principle of natural justice that applies here. Notwithstanding that some of these circumstances are very difficult, very complex, a key tenet of the Order of Australia is to recognise those principles of natural justice that apply when a termination or a cancellation is being considered. As it currently stands, the constitution doesn't allow for a termination or cancellation of a deceased member.

**Senator AYRES:** I'll come to deceased members in a moment. But have others, whether they're the ones I've raised with you in previous estimates or others who've been identified in the child sexual abuse royal commission—have any of the living persons who've been identified in that manner—had their honour removed?

**Mr Singer:** What I can say is that over the last five years there have been six terminations or cancellations. They've applied for a number of different reasons as to why they've been either cancelled or terminated. If there were to be a finding where a living individual were convicted or charged or found guilty of an offence, then that of course would be reason for the council to consider, in line with the processes outlined in the constitution, a termination or a cancellation.

**Senator AYRES:** Yes, that's what I don't understand. The Prime Minister tried to create the impression in 2020 that these matters would be dealt with by the council. I took it, from what you said a moment ago, that you would effectively have it on the agenda for the next council meeting. Where's the threshold for removal? I don't want to participate in a hearing where the prospect of removal is held out as a serious prospect but subsequently is not delivered upon. Is there a false hope being held out here about what's going to happen to Mr Heydon's award?

**Mr Singer:** As we've discussed previously, one of the key aspects that the council considers is that the legal process would need to have concluded before the council would make a recommendation. I think that's an important part of the process to maintain in relation to the principle of natural justice.

**Senator AYRES:** So the legal process is that in relation to a number of these complaints a confidential settlement has been reached, belatedly, by the Commonwealth. Does that reach the threshold for conclusion of the process as far as you're concerned?

**Mr Singer:** I wouldn't wish to pre-empt the recommendations of or consideration by the council, but, as Secretary of the Council for the Order of Australia, I would certainly expect that today's announcement and settlement are sufficient grounds for it to be put forward to the council for recommendation.

**Senator AYRES:** On termination of honours: members who have died can't lose their membership, as you say, because the Constitution doesn't permit that. Has the Prime Minister or Mr Morton, or have you, made any representations to the council about changing the Constitution to resolve this issue?

**Mr Singer:** Thank you for the question, because I think it provides an important and timely opportunity to make very clear that the Constitution makes it clear, under the provision that I just quoted, that a person's membership ceases with their death. But, importantly, neither the council nor my office is responsible for changing or able to change the Constitution. A recommendation must come from government, via the Governor-General, to the Queen in order to make any changes to either the Constitution or the ordinances of the order.

**Senator AYRES:** Yes. Thank you. I can see that there's a process that has to be undertaken. But people have done terrible things to children and they are recipients of awards that are supposed to be an indication of the esteem in which they are held by the community. Nothing has happened to change this problem, has it? Has a recommendation been provided from the government to the Governor-General? Has the Governor-General made representations to Her Majesty about this issue? What has actually happened to fix this problem?

**Mr Singer:** I think, to pick up on a couple of the points you make there, it's not for the Governor-General to act unilaterally and make recommendations to the Queen without advice. So there's nothing from the—

**Senator AYRES:** Sorry to cut across you; I'm just conscious of the time. There's been no advice from government to the Governor-General that this change should occur?

**Mr Singer:** That's correct.

**Senator AYRES:** No representations at all?

**Mr Singer:** That's correct.

**Senator AYRES:** And it's been going on for years and years, and not just in these estimates hearings. It's been a matter of public controversy for years and years and years, and no representations from Mr Morton or Mr Morrison? And that's where it would come from, presumably—the Prime Minister, or from Minister Morton's office?

**Mr Singer:** You'll appreciate that I can't speak definitively going back in time. I can speak authoritatively for my time as the secretary for the order and as official secretary of the office that there's been no such representation in that time.

**Senator AYRES:** Okay. Thank you. That's all I have, Chair.

**CHAIR:** Thank you very much, Senator Ayres. Nothing more from you, Senator Gallagher? No? In that case, thank you very much, Mr Singer, for coming along this evening. We will send you off with our thanks for your responses to our questions.

### **Proceedings suspended from 18:39 to 20:12**

#### **Department of the Prime Minister and Cabinet**

**CHAIR:** The Finance and Public Administration committee will now recommence its hearing. I welcome Senator the Hon. Marise Payne, Minister for Women; Ms Alison Frame, Deputy Secretary, Social Policy, at PM&C; Ms Zakharoff, First Assistant Secretary; and other officers of the Office for Women. Minister, do you wish to make an opening statement?

**Senator Payne:** No, thank you.

**CHAIR:** Ms Frame or Ms Zakharoff, do you wish to make opening statements?

**Ms Zakharoff:** No, thank you.

**CHAIR:** Or Ms Stratford, for tht matter? I'll ask everyone!

**Ms Stratford:** No.

**CHAIR:** Very good. Senator McAllister, you have the call.

**Senator McALLISTER:** Thanks, Chair. Minister, you and I were both at the National Press Club last week, listening to Ms Higgins and Ms Tame. Ms Tame had three key asks to better the nation. She asked that the

government take abuse seriously, that you provide adequate funding for prevention education and that you deliver nationally consistent legislation related to child abuse and sexual assault. Will you support Ms Tame's three asks?

**Senator Payne:** Thanks, Senator. And thanks, colleagues, for the opportunity to discuss some of these issues tonight. Let me start with national legislative consistency and acknowledge Ms Tame's extraordinary commitment to addressing the question of child sexual abuse. The experience that she brings to this discussion is, frankly, I think, for most of us, barely possible to imagine.

On national legislative consistency, I can say that, through the Meeting of Attorneys-General, the Commonwealth, State and Territory Committee, the Attorney-General has been working with Ms Tame to ensure that she's been able to raise those important issues of differing state and territory laws to work towards harmonisation. That includes definitions of 'consent', of 'sexual assault', of 'age of consent' and of 'grooming'.

We have passed some reforms in recent years to ensure that our Commonwealth laws are using appropriate terminology: we've replaced, for example, 'child pornography' with 'child abuse material'. Through the leadership of the Commonwealth, we have supported the progression of considerable work by each jurisdiction on improving the criminal justice response to sexual assault and on developing national principles on coercive control. The A-G has also, through the funding that we committed under the Women's Budget Statement in 2021-22, been supporting a joint program of work about strengthening that justice response. This is work that is underway, and we support the development of national, legislatively consistent provisions to address these issues, which is evidenced by that engagement.

In terms of funding for implementation, as this committee knows, the Women's Budget Statement of 2021-22 had an investment of over \$1.1 billion to prevent and respond to violence against women and their children over the next four years. That brings our investment in women's safety to over \$2 billion since 2013. We described the funding in last year's budget as a down payment on the next national plan, and you know the next national plan is currently out for consultation. Once that national plan's agreed between the states and territories, then the Commonwealth will release its first five-year action plan under it, and that will, of course, be funded. I think the work that we have done through COVID as well is an indication that we are very cognisant of the challenges that exist in this area.

We've also invested over \$70 million to deliver national prevention campaigns since 2016. The role of the Stop it at the Start campaign is about knowing that disrespect is central to all abuse and violence, and that's why Stop it at the Start is focused on changing attitudes and behaviours around respect, consent and ingrained gender inequalities—this is the prevention aspect that Ms Tame speaks to.

All of those actions go to the request and the view that, as a government, we must take abuse seriously and that is absolutely my view. We are acting to support women's safety in their homes, in communities, in workplaces and in online spaces. We are working to implement all of the recommendations, as you know, Senator, of the Sex Discrimination Commissioner's report, *Set the standard*; and our women's safety summit last year, which has been part of this over-18-month consultation period on the next national plan, was also an important opportunity to bring lived experiences together and inform the plan to end violence against women and their children.

I don't have all the material here this evening on child sexual abuse, which is also core to Ms Tame's concerns, and she emphasised that on multiple occasions in her remarks last week. I don't have all of that here, but we are also taking significant steps in that area. I know there will always be differences, and differences of opinion, self-evidently—that has been the case in the past—but the government are taking these steps to ensure that we take it seriously, to ensure that we are committed to the funding that is required and to ensure that we are moving on national legislative consistency with the states and territories.

**Senator McALLISTER:** Do you think the funding levels at the moment, across the federation, are adequate for prevention education, which is the second of Ms Tame's asks?

**Senator Payne:** I don't have all the state and territory funding arrangements with me this evening. I think that in these circumstances, there is an opportunity—'opportunity' is perhaps the wrong word. The funding question is an ongoing one, and it has to be reviewed in relation to meeting demand of the sector, of the preponderance of the abuse, and what is working and what is not working—all of those actions. Ms Frame tells me she has more information here this evening on the child sexual abuse aspect. But we do keep that under review all the time, as you would expect a government to do, and that's why, when we did present the Women's Budget Statement last year, it included over \$1 billion to prevent and respond to violence against women and their children over the next four years.

**Senator McALLISTER:** As I imagine you know, the quality of prevention education varies significantly across states and territories in school systems. Is that a proposition that the Commonwealth accepts and is willing to take leadership on to raise the standard of education across the system?

**Senator Payne:** These are conversations that we have been having right through this consultation process and through the development of the national plan. They are conversations which I have also had myself with attorneys-general from other states and territories, and other relevant ministers. I think that it is important we work together—this is a federation. The women's safety task force, as disparate as it is in terms of its make-up across the states and territories and the Commonwealth, is an important component of this. The reason why that is, and the reason why it is one of only two national federation reform councils, is that we do recognise the importance of that coordination and leadership.

**Senator McALLISTER:** I want to come back to the plan, but this morning the Treasurer made a series of remarks about the benefits to women arising from the government's tax policy settings. Was the Office for Women involved in reviewing the analysis that the Treasurer based his remarks on?

**Senator Payne:** I understand it to be Treasury data—or maybe even ATO data, to be precise—but I'll ask Ms Stratford if she wants to add any more.

**Ms Stratford:** No, we weren't consulted prior to the analysis being released.

**Senator McALLISTER:** Thanks.

**Senator Payne:** I should've said, Senator, in relation to your previous question that I particularly welcome the agreement at the Education Ministers Meeting in just the last week or so on consent education. That obviously is a component of the sorts of issues that you're talking about.

**Senator McALLISTER:** Just a few more questions about the plan. You indicated that, when the plan was finalised, you intended to release an action plan or a draft action plan?

**Senator Payne:** As you know, the plans are underpinned by implementation or action plans, and that will be produced after the plan is finalised.

**Senator McALLISTER:** Can you step me through the timetable for that? As you do so, I'm interested in the expected date for finalising the plan and whether or not you intend to consult on the action plans prior to confirming them.

**Senator Payne:** Commentary on the draft plan period will close on 25 February. I'll ask Ms Zakharoff or Ms Stratford to take you through the next steps.

**Senator McALLISTER:** Thanks.

**Ms Zakharoff:** If I can explain it in a temporal way: the next national plan is due to come into effect on 1 July 2022. Working back from there, we need to finalise the national plan and, as the minister said, that's currently out for consultation and closing on 25 February. This is subject to the decisions of ministers, but our expected next step is that it will go to the women's safety task force, which is all jurisdictions, with the Minister for Women and the Minister for Women's Safety chairing that task force to get agreement on the draft plan as it then is. We, the Commonwealth, will then work through the details of the action plan with states and territories. I would note that states and territories have, quite rightly, flagged that they will also go through their own internal approval and budget processes in that time. There are a number of steps, but we have until that 1 July 2022 period.

**Senator McALLISTER:** Is it your intention to publicly consult on the draft action plans or on the action plans at all?

**Ms Zakharoff:** It's not actually something I am aware of. If I can, I'd like to consult with my DSS colleagues who we work quite closely with in the development of the national plan and the action plans, and I'll come back to you.

**Senator McALLISTER:** Is that something we could do this evening?

**Ms Zakharoff:** Potentially, yes.

**Senator McALLISTER:** Minister, do you have a view?

**Senator Payne:** Reflecting on the development of the last action plan, my understanding is that that went through state and territory processes and the Women's Safety Taskforce processes. I don't recall it being consulted in the same way as the national plan itself. As Ms Zakharoff said, we'll clarify that.

**Senator McALLISTER:** Is it your expectation, Minister, that the draft plans will be made available to the public prior to an election? We obviously have a very limited window in which an election could take place.

**Senator Payne:** Which plan, Senator?

**Senator McALLISTER:** The action plans.

**Senator Payne:** As Ms Zakharoff said, the action plans are to sit under the national plan itself, and I would expect that the first five-year action plan will be released in the first half of this year. However, given that the expiry of the next national plan is in the middle of the year, I'm not sure what the exact timing on that will be at this stage.

**Senator McALLISTER:** For clarity, as far as we can be clear, it's uncertain whether or not the public will see the action plans prior to the election?

**Senator Payne:** I don't know when the election date is, and we have to finalise the commentary process on the national plan and then progress that through the women's safety task force, as Ms Zakharoff said, for its finalisation. Then the action plan sits under that. So, it is a matter of those time frames, and we will endeavour to make it public as soon as we can.

**Senator McALLISTER:** So, we're uncertain at this stage whether or not there's going to be consultation on the action plans and uncertain about whether people will see them before they go to an election.

**Senator Payne:** No, Senator. I think that the development of the action plan—and I stand to be corrected, if I have misremembered this—on the last occasion was undertaken through the women's safety task force process and agreed through that process. I don't recall it being broadly consulted in the same way as the national plan itself. I don't think that that has been the purpose of the action plan, but we will take that on notice and come back to you.

**Senator McALLISTER:** As you almost certainly know, an open letter was released on Wednesday and 45 quite prominent women expressed disappointment in the draft national plan and aspects of that plan. Can I take you through some of the propositions that they've put and get your response to those. The letter states:

In the absence of targets, we do not believe the draft is credible and believe it should be withdrawn and rewritten to reflect these concerns.

Will the government set specific targets to reduce violence against women and children as part of the plan?

**Senator Payne:** The draft plan includes key indicators, and we are considering those stakeholder views, including those to which you have referred on the draft national plan, including potential targets against those indicators. Any targets would have to be agreed by the women's safety task force, which, as you know, comprises all of the states and territories and the Commonwealth. The national plan itself does include target 13 of the National Agreement on Closing the Gap, which is aiming to reduce all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and girls by at least 50 per cent by 2031 as progress towards zero. But, as I said, we will continue to consider those stakeholder views.

**Senator McALLISTER:** Will the Commonwealth be taking a proposal for targets against some of those indicators into that meeting of the women's safety ministers?

**Senator Payne:** I said we would continue to consider those stakeholder views.

**Senator McALLISTER:** So, no decision on that question as yet?

**Senator Payne:** No, Senator.

**CHAIR:** Senator McAllister, we only had 20 minutes set aside for the Office for Women tonight and I know Senator Waters would like to ask some questions as well. Do you have much longer left?

**Senator McALLISTER:** I have three questions of fact, really, about this same matter and then I'm happy to pull up. The signatories to the open letter also considered that the government should undertake a more robust analysis of how and why the first national plan failed to meet its aspiration. Is that something that the government is willing to do?

**Senator Payne:** Sorry, could you say that again.

**Senator McALLISTER:** Signatories to the open letter argued that the government should undertake a more robust analysis of how and why the first national plan failed to meet its aspiration of a significant and sustained reduction in violence. Is that something that the government is going to do?

**Senator Payne:** As I recall, the inception of the first national plan, as it was by the Gillard government, I think, at the time—with multipartisan support—the work of bringing that plan together was considerable, as is the work for this next draft national plan. There are a range of stakeholder views. That process remains open, and the government will continue to consider those stakeholder views on the draft national plan, including raising those aspects which need to be agreed by all members of the women's safety task force, with them.

**Senator McALLISTER:** Sure. I think what stakeholders are looking for is some commitment that the government is willing to reflect on why things didn't produce the results as expected?

**Senator Payne:** We wouldn't be producing the next national plan if we were not willing to do that and not committed to this task and not committed on these issues. That is absolutely the case, and I can assure you and all stakeholders of that. I welcome the comments and the submissions which are being made. But, as you would imagine, given the process is still open and underway, those matters are still being considered.

**Senator McALLISTER:** I have two more questions of fact. Will the government be releasing the consultation reports that were prepared by Monash University that underpin the draft plan, a request that's been made by many experts in the public discussion?

**Senator Payne:** I think that matter is in the hands of Minister Ruston, given that that process was commissioned through DSS, but I will check.

**Senator McALLISTER:** I wonder if you could check this evening.

**Senator Payne:** I'm not sure if I can this evening. I said I'll check.

**Senator McALLISTER:** So you don't know yourself?

**Senator Payne:** I said it's in the hands of DSS and Minister Ruston.

**Senator McALLISTER:** But not in your knowledge—it's not something that has been communicated to you?

**Senator Payne:** Not that I'm aware of.

**Senator McALLISTER:** Has the government released all of the evaluation reports of the previous national action plans so the public can judge what issues might be relevant for the next one?

**Senator Payne:** Those matters, in terms of the management of those reports, are, again, in the hands of DSS, but let me check.

**Senator McALLISTER:** Finally, there have been a number of requests for a dedicated standalone national plan to eliminate family violence in First Nations communities. Does the government intend to deliver a standalone national plan to eliminate violence against Aboriginal and Torres Strait Islander women?

**Senator Payne:** We have said that we have agreed to a dedicated Aboriginal and Torres Strait Islander action plan. We are working with our Aboriginal and Torres Strait Islander Advisory Council on the development of that dedicated action plan, and that reflects our absolute commitment to addressing the unacceptable rates of family violence against Aboriginal and Torres Strait Islander women and children. That is a subject that I have discussed myself with leading advocates like June Oscar, for example, as have a range of cabinet ministers.

**CHAIR:** Senator Waters, we are running quite over time, so, if you can be as economical as possible, I'd appreciate it.

**Senator WATERS:** Hi, everyone. Thanks for joining us tonight. I'll start off with the budget process. Last year a member of the Office for Women was seconded to Treasury to help coordinate the Women's Budget Statement. Is the same arrangement in place for the upcoming budget?

**Ms Frame:** Yes, it is.

**Senator WATERS:** Will that simply be an analysis produced post budget, as it was last year, or will there be any semblance of a gender lens on the decisions taken prior to them being included in the budget?

**Ms Frame:** You're asking about the Women's Budget Statement this year and the proposed—

**Senator WATERS:** I'm asking about the role of the Office for Women in putting what I hope to be a gender lens on the budget, which is not what happened last year. It was a sort of post-document summary of the implications of the budget. Will that be the same this year or will you have some input on decisions prior to them being made, which would be a true gender lens on the creation of the budget?

**Ms Frame:** We work closely with Treasury, who lead and prepare the Women's Budget Statement, as you know. It's a glossy document produced from that department.

**Senator WATERS:** It is very glossy, yes.

**Ms Frame:** That's the terminology, actually, that they use for it—

**Senator WATERS:** It's very apt.

**Ms Frame:** and for other budget papers as well. We work closely with them in the preparation of measures that go into that statement and on the analysis. We worked extensively with them on the women's economic security analysis that was in the statement last year. DSS obviously lead strongly on the women's safety elements in that package. I anticipate we would be taking, or we are already taking, a similar approach this year, where we



work closely with colleagues across the government, consider which measures are going to be included in the package—which is obviously dependent on decisions from the government—and then input the analysis, as well as providing gender analysis on other measures that get considered outside of the Women's Budget Statement.

**Senator WATERS:** Is that gender analysis of the budget as it's produced, as opposed to decisions taken on the way into formulating the budget?

**Ms Frame:** There are elements of both.

**Senator WATERS:** Can you take it on notice to provide the exact scope and role of the Office for Women in providing that analysis on the way into budget decisions, because, if that is in fact happening, that's the first time I've heard it in the eight years I've been asking this question. So I'm keen for some more information if that is in fact the case. Perhaps I'm using the wrong words, given the lateness of the hour. If you could take that on notice for me.

**Ms Frame:** No problem. If I could just clarify, the gender analysis is typically done by departments with their own measures. So they undertake that analysis, not the Office for Women on their behalf.

**Senator WATERS:** Yes. My question goes to the decisions before they're taken and then included in the budget. You keep nodding, so I think you know what I'm on about—as opposed to just working out what it means for women after the decision has been made by, mostly, a bunch of dudes. Pardon my colloquialism.

**Ms Zakharoff:** Increasingly, the Office for Women is working more proactively. We had some additional resources provided in last year's budget. That's given us some additional capacity to increase our engagement with departments and agencies. As Ms Frame said, we don't prepare their budget measures, but we provide advice and ask questions that might help illuminate and illustrate the gender impacts of the proposal so that, as decision-makers are considering proposals, it's a more fulsome piece of information. We're definitely—

**Senator WATERS:** Starting to do that?

**Ms Zakharoff:** Yes.

**Senator WATERS:** Can you provide, on notice, a bit more about the scope and level of resourcing you've had to do that?

**Ms Zakharoff:** Sure.

**Senator WATERS:** In my view, that should have been the role of Office for Women all along, and I welcome that it sounds like you're starting to do some of that work. There was recently an announcement by the New South Wales state government that they've adopted an expert panel on women's economic security to help develop the New South Wales state budget. Has the Office for Women briefed the Minister for Women's Economic Security on that arrangement?

**Ms Stratford:** No.

**Senator WATERS:** Minister Payne, that's your home state. I'm sure you're aware of that arrangement?

**Senator Payne:** I'm aware and I'm also aware of the work that the national cabinet has been doing in relation to women's economic security and on determining a nationally consistent framework for measuring progress on women's economic security that enables the jurisdictions to state their existing measures, to identify where the gaps are and, on that basis, to plan future investments to improve women's economic security. We also have a women's economic security senior officials meeting, which underpins the national cabinet activities and which is also meeting to progress that work.

**Senator WATERS:** I want to move briefly back to the national plan, noting Senator McAllister's questions already on that matter. Can I ask first about the change of time frame from 12 years to 10. Did the Office for Women provide any input into that? Maybe that's more of a DSS issue, but does anybody at the table know about the reasoning behind changing the time frame, and did you provide advice on the wisdom of doing so?

**Ms Zakharoff:** I'm not aware of any advice, but it potentially precedes me. I'm certainly happy to take that on notice to see whether there was any advice.

**Senator WATERS:** I'm just interested in the policy rationale behind the change from 12 to 10, but I've also got my eye on the clock. The other issue I wanted to ask about, Minister, perhaps while you're reflecting on that question about the change of time frame, is—

**Senator Payne:** I don't have information for you on that.

**Senator WATERS:** Is that a question for Minister Ruston?

**Senator Payne:** I think the change to the time frame was agreed, and it includes two five-year action plans sitting underneath it, but I don't have anything further for you.

**Senator WATERS:** I'll take that up with DSS.

**Ms Frame:** Can I just add that part of the rationale behind the two-by-five plans, rather than the four-by-three—which doesn't go directly from 12 years to 10—goes to Senator McAllister's earlier questions about evaluation. Part of the thinking was that two-by-five-year action plans would enable more time for evaluation of the effectiveness of measures, rather than the four-by-three action plans, which were very quickly rolled over without allowing that time for rigorous evaluation. We think this change will increase the effectiveness of the spend.

**Senator WATERS:** Has there been a guideline for what shape that evaluation will take; has that been decided yet?

**Ms Frame:** I'll have to take it on notice. There would be a lot of thinking about that with DSS, and there will be work on that, but we'll take that on notice.

**Senator WATERS:** Thank you. Obviously, a key criticism of the first national plan was that it lacked evaluation, as has been covered already in earlier questions. There is a recognition of the importance of gender equality in the draft plan but, again, it lacks any sort of specificity or any measures designed to address gender equality. Minister, or folk from the Office for Women, is that work to be expected in the draft action plan or is that not forthcoming?

**Ms Zakharoff:** There's definitely a recognition that gender equality is a very important element. It's not intended or designed to be a plan that captures everything, including women's economic security. There are references, but it may well be something that comes up prominently in the feedback that we may need to look at. The priority is trying to capture women's safety measures.

**Senator WATERS:** Given that the plan itself acknowledges that the lack of gender equality is a key driver for violence, and we all know that, it makes sense to put in—and I don't want to say meat around the bones—some delivery items around trying to achieve gender equality. That's not in the draft plan. Is it being worked on to be in the action plan?

**Ms Zakharoff:** Elements might appear in the action plan—we're going to hear from Ms Wooldridge from WGEA in a minute—and there are certainly other measures across government that go to initiatives to address gender equality.

**Senator WATERS:** It might be in the upcoming action plan that we're not sure whether we will see before the election, and we don't know whether that will be consulted on with experts or the community.

**Ms Zakharoff:** Just on the point around experts, we've had the benefit of advisory groups supporting the development of the national plan. It's obviously a matter for ministers, but I anticipate that their advice and support might be continued for the development of action plans as well.

**Senator WATERS:** I hope so. I have a last question, and I will take this issue up with WGEA as well. What is the time frame for a report into the WGEA review and any legislative review that might flow from that, in particular the extension of WGEA's remit to the public sector? Is there a time frame on that?

**Senator Payne:** The WGEA review report was provided to government on 27 December. I have had a look at the review. I've spoken with senior officials and other cabinet ministers in relation to the review and intend to release that very shortly.

**Senator WATERS:** And is there a time frame around the expansion of WGEA to the public sector?

**Ms Stratford:** We're expecting to report in the 2022-23 financial year.

**Senator WATERS:** What does that mean, 'you're expecting to report'?

**Ms Stratford:** There's a pilot underway at the moment with WGEA and a small number of agencies. Following the results of that pilot, we'll expand the reporting more broadly across the Public Service. As well, at national cabinet on 10 December last year, there was an agreement that states and territories would also publicly report to WGEA, so we're working with our jurisdictional partners now around the timing. But they are committed to doing that as soon as possible, and Ms Wooldridge can probably speak to some of the conversations she's had around that with the jurisdictions.

**Senator WATERS:** What was that date you just mentioned?

**Ms Stratford:** It was 10 December.

**Senator WATERS:** And prior to that—the end of the pilot?

**Senator Payne:** The 2022-23 financial year.

**Senator WATERS:** Thank you very much.

**CHAIR:** If we have no further questions for the Office for Women, we will let them go. We thank them very much for coming along this evening.

### Workplace Gender Equality Agency

[20:46]

**CHAIR:** I welcome the director of the Workplace Gender Equality Agency, Ms Mary Wooldridge, and other officers. Minister, do you wish to make an opening statement at this point?

**Senator Payne:** Not yet.

**CHAIR:** Ms Wooldridge, do you wish to make an opening statement?

**Ms Wooldridge:** No, thanks.

**CHAIR:** Wonderful. Senator Ayres, I'm giving you the call.

**Senator AYRES:** I have one short question, and then I'll stop. Ms Wooldridge, I see there's an event on tomorrow. You're a guest speaker. You and the Rt Hon. Theresa May are both keynote speakers. It looks like a very good event. Is that hosted by the agency? Are there speaker fees involved? Or is it hosted by KPMG and they are dealing with all of that? Can you tell me what the arrangements are?

**Ms Wooldridge:** WGEA and Chief Executive Women are jointly organising the event. KPMG, at the request of Chief Executive Women, agreed to host it. Theresa May is appearing with no fee. The facilitator is Annabel Crabb, and there is a small fee for Annabel Crabb.

**Senator AYRES:** Thank you.

**CHAIR:** Senator McAllister.

**Senator McALLISTER:** When should we expect the review of the Workplace Gender Equality Act to make their report to government?

**Senator Payne:** I just said, in response to Senator Waters—

**Senator McALLISTER:** I'm sorry; I didn't hear that.

**Senator Payne:** that I received the report on 27 December, I think.

**Senator McALLISTER:** I assume you gave an indication of when that would be made public?

**Senator Payne:** I said 'shortly'.

**Senator McALLISTER:** I noted your comment to Senator Waters and the officials' remarks around the timing of the new reporting arrangements for public sector agencies. A legislative change is required to implement that commitment; is that correct?

**Senator Payne:** I might ask Ms Wooldridge to take that question.

**Ms Wooldridge:** As I understand it, for the APS public sector agencies, it can be done on the direction of the public sector commissioner. If it is to expand to broader non-APS public sector agencies, such as the government business enterprises, that would then require a change in the legislation.

**Senator McALLISTER:** Minister, is the government's commitment to expand it to those broader agencies, or is it simply to extend this obligation to the APS?

**Senator Payne:** I think, as the official said earlier, there is a pilot or a trial underway, if you like, in terms of the reporting process. That will be evaluated and will determine the extent of its application through that process.

**Senator McALLISTER:** The timing around this, like so many things, is tight. If the reporting is to commence in the 2022 financial year, that legislation would need to progress quite rapidly through the parliament, given that an election is imminent. Has the legislation been drafted, or have any preliminary drafting instructions been commenced?

**Senator Payne:** As Ms Wooldridge said, legislation is required for agencies outside the APS core, but for the APS core it's able to proceed on the direction of the Public Service Commissioner. I've previously corresponded with the Public Service Commissioner about this in strong support, and the processes for the extension or otherwise will be determined, as I said, based on the outcome of the pilot.

**Senator McALLISTER:** Alright, so from a process perspective the government doesn't intend to start drafting legislation until it has received the outcomes of the pilot?

**Senator Payne:** That process is already in train, so it would seem logical to receive the outcomes of the pilot.

**Senator McALLISTER:** That's okay. I'm not offering a criticism; I'm just trying to understand the sequence.

**Senator Payne:** That seems appropriate.

**Senator McALLISTER:** You intend to wait until you receive the results of the pilot and then determine whether or not you'll extend it to these broader agencies and hence whether to commence drafting.

**Senator Payne:** Whether legislation is required, yes.

**Senator McALLISTER:** The APS Commissioner is an independent statutory role. Is it correct that ultimately the decision about whether or not to extend these reporting requirements to the APS would be a matter for that person rather than for you, Minister—or for the cabinet, for that matter?

**Senator Payne:** As I said, I think we prefer to take a cooperative and collaborative approach on this. That's why the pilot is progressing, so that we are working together with the system, with the agencies, with the public sector, here at least at the Commonwealth level, towards that implementation.

**Senator McALLISTER:** That doesn't really answer my question. I appreciate your commitment to collaborating with the APS Commissioner. But the decision whether or not to make such a direction is ultimately up to the commissioner, not to the cabinet; is that correct?

**Senator Payne:** I'm not sure that's actually correct. I think the decision to seek for the APS Commissioner to exercise a direction would work in consultation with government. But we're not at that point, so we will conclude the pilot process, as was outlined to Senator Waters, and go from there.

**Senator WATERS:** Just sticking with data issues before going on to the gender pay gap specifically, is there any work being done—I should say hello first, Ms Wooldridge, and thank you for the work you and your organisation do—to improve data regarding government procurement from female led businesses and, if so, how is this measured?

**Ms Wooldridge:** Not specifically. The agency has more broadly published guidance to companies about procurement policies and their capacity to help drive gender equality, but digging down into female led businesses and such has not been a focus of the work.

**Senator WATERS:** Hopefully you'll have more staff in future years and you can collect all of the useful data that then helps fix the issues. The latest data shows fractional improvement in the gender pay gap, but it remains persistently around 23 per cent. Have you met with the Minister for Women's Economic Security to discuss the latest snapshot, Ms Wooldridge?

**Ms Wooldridge:** I have talked with the Minister for Women's Economic Security and the Minister for Women in relation to the latest data, and we provide a briefing on the data and have the opportunity to have some discussions both with the ministers and in detail with their offices.

**Senator WATERS:** Roughly when was that?

**Ms Wooldridge:** As you'll know, last week we released our scorecard over the course of the week, and in the couple of weeks beforehand, leading up to that release of the data, those conversations become an ongoing discussion. It's not just a one-off; it's an ongoing conversation we have, particularly with the officers and then, as the opportunity arises, individually with the ministers.

**Senator WATERS:** Has WGEA been asked to input any recommendations for the upcoming budget in relation to women's economic security and reducing the gender pay gap?

**Ms Wooldridge:** We've certainly taken the opportunity, in discussions with the minister and with the Office for Women, in relation to funding for our agency and the capacity, we believe, to have a greater impact on driving gender equality in workplaces, including, of course, addressing the gender pay gap. The review of the act is an important part of that and the potential to further drive change, and also the investment and expansion of our reporting through to states and territories. We continue to have those discussions.

**Senator WATERS:** My question really went to policy solutions, but you've mentioned that it would behove you—I think your words were that you'd be 'more effective' if you had additional resources. What sorts of additional resources have you sought? What quantum? Are you looking at a doubling or a trebling? What do you need to do the task properly, given your expanded remit—not that you're not doing it properly already, but to do it amply and well, with great results?

**Ms Wooldridge:** I think the review of the act, which we've been consulted on in detail and put a comprehensive submission into as well, has outlined ways that the Workplace Gender Equality Agency can be more effective and have a greater impact in terms of driving change beyond what we currently do with our very significant world-leading dataset. So we've put forward some proposals. To be fair, it's probably part of internal budget discussions at this stage in relation to the quantum, and the comprehensiveness of the implementation of the review of the act is also for discussion, as to where that will land.

**Senator WATERS:** Okay. The Treasurer has been out today talking up the benefit of tax cuts for young women, but the most recent gender pay gap data, which we've just discussed, shows very marginal gains. Most analysis of the stage 3 tax cuts, which will predominantly benefit men, are that that would far outstrip any such so-called benefits the Treasurer referred to this morning. What measures are actually needed to support closing the gender pay gap—the systemic drivers?

**Ms Wooldridge:** We've done some fabulous research over the years with KPMG that identifies the sources of the gender pay gap and the contribution of different issues. Some of it is occupational segregation and some of it is industrial segregation; that contributes about 17 per cent of the value of the gender pay gap. So different roles are valued at different levels, along with the fact that women often tend to go into lower-paying jobs. The issue of women taking time out of the workforce for caring responsibilities, particularly, contributes about 40 per cent of the value of the gender pay gap. And the other 40 per cent is in the order of issues about bias and discrimination. So there are a range of issues, but issues in relation to workforce participation, particularly, contribute about 40 per cent of that gender pay gap.

**Senator WATERS:** So, in answering the question of what measures are needed to support closing the gender pay gap, presumably you would go to issues of how to increase workforce participation and value unpaid domestic labour and care work. I'm interested not so much in the description of the problem, although that was a good summary, but in your policy prescriptions to fix it.

**Ms Wooldridge:** It's fair to say the agency hasn't spent a lot of time on policy in the past, and we're doing more work on that into the future. We've traditionally, as you know, been very much about collecting the data and working with companies in relation to their policies and practices. We obviously continue to do that in great detail. Our focus is on working with the companies, rather than the government policy solutions. But obviously there are things that enable women to participate: the assistance policies that companies can have about equal recruitment and retention; not having a gender pay gap on graduation, which we currently see; having women go into line roles and CFO roles that enable them to progress through organisations and enable them to take the most senior positions within an organisation make a difference as well; policies that enable caring and child care, and support that enables women to return to work after child care; and, of course, something we've talked a lot about in the last week, which is men taking parental leave, enabling return to work as well. They're some of the policies that we see and work very closely with companies on in relation to facilitating the economic participation of women.

**Senator Payne:** Senator, I think it's important to note that the gender pay gap data that WGEA publishes and the data that the ABS publishes are also different in terms of the approach that the two entities take. In terms of the gender pay gap through the ABS statistics, that sits at 14.2, which we acknowledge is too wide. It had been driven down to its lowest level on record, which was 13.4 per cent, in the six months to November 2020. But the reality is that COVID has of course impacted that as well. This is a longer conversation. I think it's a conversation worth having. It's a challenge when the committee allocates 25 minutes for WGEA and 20 minutes for the Office for Women to do that. But I appreciate your interest, and we can perhaps provide further information as well.

**Senator WATERS:** Thank you, Minister. Yes, I'm across the different scopes for collecting the data and hence the different figures, although I personally would like to see the scope of WGEA expanded further to include companies of smaller size. But that's not a matter for Ms Wooldridge tonight. Hopefully it might be in future, though. I have a few remaining, hopefully quick, questions and then I'm finished.

Ms Wooldridge, in relation to the development of the draft national plan, given that gender inequality and financial insecurity are drivers and often exacerbators of violence against women, has WGEA been consulted in the development of the draft national plan to end violence against women and their children?

**Ms Wooldridge:** I was involved in the women's safety summit and had the opportunity to speak, which I was very pleased to be able to do, and participate. But that was the extent of our involvement in the women's safety summit. The drivers of gender stereotypes and inequality for women and a lack of respect underpin a lot of work that all the agencies do. Whether it's Our Watch or that of ANROWS, we all end up coming back to the same principles in terms of what we need to change fundamentally in order to make a difference for vulnerable women.

**Senator WATERS:** Indeed. Are you anticipating providing feedback on any specific indicators that might be drafted to measure progress on gender equality under the plan? There was some speculation that, if there is an indicator, it might be in a draft action plan—or maybe there won't be an indicator. Would that be something that you would seek to have some input on?

**Ms Wooldridge:** I would very much welcome that. In fact, the national cabinet decision in December coming out of some discussions around the plan and also the implementation of a nationally consistent framework

included the in-principle agreement for states and territories to report to WGEA, which will enable us to then have a mechanism to comprehensively compare what would then cover 60 per cent of the workforce. I see that as a very positive step, and we have obviously been very engaged in that discussion in terms of the benchmarks.

**Senator WATERS:** Great. Given that undervalued care work underpins at least a large proportion of the gender pay gap, has WGEA made a submission to the Fair Work Commission's review of the aged-care sector award?

**Ms Wooldridge:** No, we haven't. That would traditionally not be something that we would contribute to. We engage in other reviews.

**Senator WATERS:** Lastly, at previous estimates we discussed the interaction of recommendations in the *Respect@Work* report to develop good practice indicators for monitoring sexual harassment and for those indicators to ideally be included in the Workplace Gender Equality Act 2012. Has any further work been done on that recommendation?

**Ms Wooldridge:** This is a two-step recommendation process. In relation to recommendation 46, the Attorney-General's Department are leading the determination and development of what those indicators will be, and they're consulting with us and many others through that process. When that work is concluded, we will then take the initiative under recommendation 42 about how they may then be applied in workplaces and how we would go about embedding that into our data capture in our annual census.

**Senator WATERS:** Do you have a time frame for your portion of the work once the first step is completed?

**Ms Wooldridge:** Our legislation requires that there be at least a year's notice of any new capturing of information from employers, because employers need some time to change their systems and processes to capture the information and, frankly, to even be educated on what's now expected and how to do that appropriately. We would hope that we can collect that data voluntarily and, in parallel, run an education campaign. But it would require that the legislative instrument is changed in order to require employers to provide that information and then have that period of notice for them to do that formally. It will take a little bit of time, but there's work in education that happens in parallel.

**Senator WATERS:** Thanks so much.

**CHAIR:** Thank you very much, Senator Waters. I must echo the minister's sentiments that this section of the program always seems to run over time and always is a little bit rushed, and we really should remember, as a committee, to set aside more time for it at future estimates. But thank you very much, Ms Wooldridge and Minister Payne, for coming along this evening.

We now have 10 minutes in which I will, unless Labor senators disagree, call the NRRA and get them started, in the interests of time.

### National Recovery and Resilience Agency

[21:07]

**CHAIR:** I welcome Senator the Hon. Bridget McKenzie, Minister for Emergency Management and National Recovery and Resilience; Mr Shane Stone AC QC, Coordinator-General of the National Recovery and Resilience Agency; and other officers. Minister, do you wish to make an opening statement?

**Senator McKenzie:** I don't, in the interests of time.

**CHAIR:** Mr Stone, I think you've tabled your opening statement for the committee; is that correct?

**Mr Stone:** I was proposing to read it, but, if I was assured by Senators Watt and Ayres that they'll actually read it, then I'll table it.

**CHAIR:** I am sure—of course they will.

**Mr Stone:** Did you read the last one?

**Senator WATT:** Cover to cover!

**CHAIR:** He studies it at night, I suspect, Mr Stone!

**Mr Stone:** Because we publish it.

**Senator WATT:** I'm sure you will publish this one too.

**Mr Stone:** If you want to raise issues about it, it would be good to do that while I'm here.

**Senator WATT:** Certainly. Unfortunately, I've only got half an hour, so I'll cover as much as I can.

**CHAIR:** And you have seven minutes now, so I will give you the call.

**Senator WATT:** Thanks, Chair, and everyone for coming along. Can we start with the Emergency Response Fund. I just want to clarify a couple of things to begin with. One of the questions on notice, arising from the last estimates, which you've since answered—it was FO69—said that, as of 7 December 2021, \$50 million had been disbursed from the Emergency Response Fund to a COAG account, I think. That's still the only disbursement that's been made from the ERF to that COAG fund?

**Mr Stone:** When you say disbursement, there's been a commitment to another \$50 million and another \$50 million after that. So the accurate picture is that \$150 million has been committed, including an announcement that the minister made on Saturday at Batemans Bay.

**Senator WATT:** Do you mean an announcement she made today about—

**Senator McKenzie:** No, the bushfire recovery grants were announced on Saturday, outlining that the next tranche of the \$50 million will be going to coastal and estuarine resilience projects as a result of discussions with the states. That's where they want the money to go.

**Mr Stone:** It was Sunday.

**Senator McKenzie:** It was Sunday.

**Senator WATT:** And I will have some questions about that, but you're right; so far, there have been three commitments of \$50 million from the ERF, those being two rounds of the National Flood Mitigation Infrastructure Program and the new announcement about coastal erosion.

**Mr Stone:** You can't describe the first \$50 million as a commitment. The money has started to go out. I announced the first \$9.4 million for the levee bank in Katherine, and I did that towards the latter part of last year. So it's not just an announcement. We work in conjunction with the states and territories to actually progress the expenditure of the funds.

**Senator McKenzie:** Just to be clear, the first \$50 million is out the door as of early December; the second \$50 million—Viv, you'll be able to go to the details of this—is in stages of discussions with states; and, for the third \$50 million, we're opening guidelines shortly.

**Senator WATT:** Let's just step through it. In round 1 of the Flood Mitigation Program, \$50 million was announced. Applications were received, decisions were made and commitments were made for that \$50 million. Then \$50 million was disbursed from the Emergency Response Fund to the COAG fund, which would then be distributed to the successful recipients. Has all of that \$50 million now been given to recipients? I think that the last figures I saw said that \$17 million had been distributed to recipients. I'm interested to know an update on that.

**Ms Johnson:** Yes, by 7 December, the full \$50 million was disbursed from the COAG reform fund through to jurisdictions.

**Senator WATT:** How much of that money has then found its way to the successful applicants rather than maybe sitting with states and territories?

**Ms Johnson:** States and territories are currently finalising their implementation plans, and they will be provided to us within the next couple of months. To date, three projects have already commenced—two in South Australia and one in Victoria.

**Senator WATT:** Minister, do you remember—I think it was partly in response to statements that the opposition had made about the ERF—that you wrote a letter to Mr Albanese which said that \$17 million of the ERF funding had been distributed to either—I'm not sure which it was to—states and territories or the recipients?

**Senator McKenzie:** It had gone out to different states and territories. It sits in that fund, and then we go and have contractual negotiations and conversations with states and territories. At that point, we'd landed some states, but we were still waiting on others. It wasn't until 7 December that we were able to say, 'Right, we've got all of them.' My understanding is we've got 22 projects across the country, and that money is now sitting out there with states and territories.

**Senator WATT:** What you're saying is that in November, or whenever it was, \$17 million had been distributed to the states and territories, and now it's \$50 million?

**Senator McKenzie:** Yes, that's out of round 1.

**Senator WATT:** That's all of the round 1 funding. Do you have a dollar figure? You said that three of those projects have now commenced.

**Ms Johnson:** Yes.

**Senator WATT:** Was there something about two projects?

**Mr Johnson:** There are two in South Australia, which total \$3.18 million, and one in Victoria has commenced, which is a \$1.2 million project.

**Senator WATT:** Of the \$50 million that has been distributed to the states and territories now, how much has then been passed on by them to their successful applicants?

**Ms Johnson:** I think it's probably fair to say that most of the projects are working through the implementation plan stage. What that means is that they need to provide us with the implementation plan within the next couple of months. The ones that I've referred to that have commenced have started the preliminary phase—that is, their preconstruction activities. Obviously, as the states finalise the implementation plans and the contracts to put in place their projects, then the money will flow from the jurisdictions to those proponents.

**Senator WATT:** I think you said there were 22 successful applicants in round 1?

**Ms Johnson:** Yes, 22 projects.

**Senator WATT:** And three of those projects have commenced?

**Ms Johnson:** Yes.

**Senator WATT:** How many projects do you expect will have commenced by the end of this financial year?

**Ms Johnson:** We would have expected all of them to have commenced by the end of this financial year, pending, obviously, trade shortages and any contractual issues that states might have. They obviously need to go through their own proper tender evaluation processes and run through those projects.

**Senator WATT:** I take it that none of those projects have been completed yet, if only three have commenced?

**Ms Johnson:** No, they haven't been completed.

**Senator WATT:** I'm happy to wait until after the break to resume.

**CHAIR:** Thank you very much, Senator Watt. We'll break for tea now, and the committee will suspend.

#### **Proceedings suspended from 21:15 to 21:30**

**CHAIR:** The committee will reconvene. Senator Watt, you have the call.

**Senator WATT:** We were going through the Emergency Response Fund. Round 1 of the flood mitigation program was announced, I think, on 1 December 2020, and what you've said is that, more than 12 months later—in February 2022—three projects of the 22 announced have commenced. Is that correct?

**Ms Johnson:** Yes.

**Senator WATT:** It is? Does that sound a bit slow to you?

**Ms Johnson:** From the previous experience in construction projects that I have, I actually don't think it is particularly slow. It takes quite a long time to work through all the tender processes and to have projects that are quite complex in their build worked through in the way that I'm sure the jurisdictions are working through them.

**Senator WATT:** Minister, I appreciate it was before you were in the role, but round 1 of the flood mitigation program was announced at the start of the 2020 disaster season. That came and went. We're nearly at the end of the 2021-22 disaster season, and only three of these projects have commenced. Surely it would have been better to get this moving more quickly and start earlier so that these communities could actually have these projects built to protect them from disaster seasons?

**Senator McKenzie:** This government has taken the unprecedented step of actually setting up an agency like the NRRA to, for the first time in our nation's history, get the 'droughts and flooding rains', cyclical nature of the way this country runs—have a federal agency wholly and solely focused on dealing with that. That's the first time. You go to how long the first-ever tranche of resilience focused money is taking to be rolled out—that it's taking too long. I wouldn't agree. I would obviously say that it's taken the time it's taken, and anyone that's tried to wrangle seven states and territories on the page understands that that doesn't happen quickly, bearing in mind that this was the first time this type of project and program had been commenced.

Whilst that may have been the first round, I'm very confident, having come to the portfolio in the last six months—we've got round 2 out the door; guidelines for round 3 are going to be commencing very, very quickly; we've done that level of consultation and we now have those relationships with state and territory governments so that this is now a process they well understand—that this will happen in a much more timely manner, which I think is really exciting for the generations to come. Shane, did you have anything else to add?

**Senator WATT:** I think you said that you've got round 2 out the door. That's not correct; you've only just closed applications for round 2, and you haven't announced the successful applicants for round 2 yet.



**Mr Stone:** Let's just come back to round 1. There's \$9.4 million for the Katherine levee. That's money paid, sitting in the Northern Territory treasury. Do I have the authority to go to the Northern Territory and crack the whip? No, I don't. That is the responsibility of that government. And that's how this works. What are we to do, Senator? We fulfil all our obligations. We track it through. We try to progress it as quickly as we can. There's still no levee wall, but the money's sitting in the Northern Territory Treasury.

**Senator WATT:** Mr Stone, you don't need to feel defensive about this. My criticism is of the government. The last I knew was that you were not an elected representative of this government. Is that correct?

**Mr Stone:** I'm defensive because of the hard work my officers put in to try to progress these projects. Sometimes it's a step forward and a step back, and we get as frustrated as you might. But we do our bit. And when we deliver money to state and territory governments, and they then don't perform, I ask the question again: what are we to do? Do we abandon the program? Do we tell them that we will take the money back? I'm all ears. How do you get some of these jurisdictions to get on with it?

**Senator WATT:** I suppose that's why you're paid the big bucks, Mr Stone—to work that out. Ms Johnson, I think you said that three projects had commenced. Did you also say that they're in the preconstruction phase, or did you mean other projects?

**Ms Johnson:** That's correct.

**Senator WATT:** So those three projects are in preconstruction phase?

**Ms Johnson:** Yes, preconstruction phase.

**Senator WATT:** So they actually haven't commenced in the sense of things being dug or built?

**Ms Johnson:** In the sense that all of these projects have the different phases: preconstruction, construction and completion. They'll all work through those milestones.

**Senator WATT:** How many jobs have been created from these projects so far, if they're only at preconstruction phase?

**Ms Johnson:** I don't have that information. I'll have to take that on notice.

**Senator WATT:** Okay, thanks. Minister, round 2 applications have just closed. What is the process for deciding who will be successful?

**Senator McKenzie:** I'll throw to the agency for the actual process. They're the ones in direct negotiation.

**Ms Johnson:** The process is that next week we have a technical advisory panel meeting and then a program review panel that will make an assessment of all the applications that we have received. The panel's deliberations will then be summarised by us and consolidated into recommendations for the coordinator-general to consider. Those recommendations will then be passed to the minister for her consideration and approval as the decision-maker.

**Senator WATT:** So, ultimately, it will be the minister's decision?

**Ms Johnson:** Yes.

**Senator WATT:** Based on recommendations from the agency. How many applications have been received for the second round of funding?

**Ms Johnson:** Thirty-seven applications.

**Senator WATT:** What's the total value of funding sought by those 37? I'm assuming that that goes beyond the \$50 million that's available.

**Ms Johnson:** It's \$80 million. If I could clarify that, in terms of past experience we've certainly seen that some applications we receive are actually not eligible under the guidelines. So, until we work through the assessment process next week, we won't know that.

**Senator McKenzie:** That might be a better question on notice once the assessment process has been completed, because it assumes that all of those projects, and therefore all of that money, are eligible under the guidelines.

**Senator WATT:** Yes. Could you please table a list of the applications you've received? That information was previously provided by EMA when it had carriage of round 1.

**Senator McKenzie:** We'll take that on notice.

**Senator WATT:** As I said, EMA did provide that information.

**Senator McKenzie:** Yes. We'll have a look at that and take it on notice.

**Senator WATT:** Thank you. I'll turn to yesterday's announcement about the Coastal and Estuarine Risk Mitigation Program. To be clear, that is allocating the 2022-23 lump sum of \$50 million available for mitigation.

**Senator McKenzie:** That's for projects. That decision was arrived at by talking to states and territories. Where do you want this resilience funding to go, and what sorts of projects? You would appreciate, being the shadow minister, that local councils are often responsible for a lot of this stuff. When we're looking at the coastal inundation, it's about building sea walls; when we're looking at estuarine environments, it's more about nature based solutions, such as planting trees or landscaping.

**Senator WATT:** Right. So that was the consensus of the states and territories, was it? That was what they wanted the money for?

**Senator McKenzie:** That's my advice.

**Senator WATT:** Because I think Minister Littleproud, when he was in the portfolio, said that the real pressure from the states and territories was for flood mitigation in general. So has something changed there in terms of what the states and territories have said?

**Senator McKenzie:** We've put \$100 million towards flood mitigation, partnering with states and territories. One of the changes I've made within this space is to actually ensure that future rounds of the emergency management fund will actually require the states and territories go out to local councils, because they're often on the ground dealing with these issues specifically. Viv, do you have anything to add to that?

**Ms Johnson:** No, Senator.

**Senator WATT:** Is it anticipated that this will be an application based program as well?

**Ms Johnson:** Yes, the same process.

**Senator WATT:** Yes, but I would expect that, given we're talking about funding that's not available until the next financial year, applications won't be called for until that financial year starts.

**Senator McKenzie:** Guidelines will be opening in a little over a week—the start of March—and then closing. Obviously we'll be looking at assessing those applications in June, July and August.

**Senator WATT:** So you will be calling for applications before the end of this financial year—

**Senator McKenzie:** Yes, the guidelines will be released—

**Senator WATT:** to spend money in the next financial year?

**Senator McKenzie:** Yes.

**Senator WATT:** But you don't anticipate that the assessment of those applications will happen this financial year?

**Senator McKenzie:** Based on past experience, no. We hope it will be quicker, given we're all a little more au fait with the process.

**Senator WATT:** That obviously uses all of the next financial year's mitigation allocation. So there won't be any other money available from the ERF for bushfire mitigation or flood mitigation?

**Senator McKenzie:** I point you to the coordinator-general's opening statement. To make the assumption that there's no money from the government available for further bushfire recovery or resilience because the \$50 million of the ERF has been allocated, in partnership with states, really sends a message to particularly vulnerable communities and individuals that we don't have a plethora of options available, and I think we as a government have demonstrated, in conjunction with the state governments, a willingness to stand and fund a range of projects through a range of programs. The bushfire recovery grants announced on Saturday go to that mid- to long-term planning, so we stood with quite an extensive response—\$2.9 billion, and \$2.5 billion of which has been committed with these communities in the early response phase. Now we're getting into that longer term recovery and building long-term resilience through the program released on Saturday. We're going to continue to do that.

**Senator WATT:** Am I right then that also at this point in time the Emergency Response Fund has not released anything for disaster recovery?

**Senator McKenzie:** It's for resilience projects.

**Senator WATT:** No, the ERF is structured to fund both disaster recovery—up to \$150 million a year—and resilience—up to \$50 million a year. So my question is about the recovery aspect. Am I right that at this point in time no funds have been expended from the ERF for disaster recovery?

**Mr Padovan:** The Emergency Response Fund, as we discussed at the last estimates, is the fund of last resort.

**Senator WATT:** Yes.

**Mr Padovan:** There are a range of other mechanisms available. Several billion dollars have gone out through other programs, and at this stage there has been no identified requirement to call upon the recovery component of the Emergency Response Fund.

**Senator WATT:** Yes. So to put it simply—and I understand the reasoning—at this point in time no money has been allocated or spent from the Emergency Response Fund for disaster recovery.

**Mr Stone:** Let me give you an example.

**Senator WATT:** It's a yes or no question.

**Mr Stone:** No, it's not.

**Senator WATT:** Well, the answer is: yes, no money has been expended.

**Mr Stone:** No, no. You're not understanding.

**Senator WATT:** I think I am.

**Mr Stone:** Sorry, Senator, with respect, moneys are allocated for different weather events. Take the example of North Queensland, where a certain amount of money was set aside, and it wasn't all taken up, which meant that we were able to repurpose moneys, which we've been doing. The minister has supported the repurposing of that money in other areas, mainly in North Queensland. If you're able to repurpose and shuffle money around, you don't need to go to that other fund. It is a fund of last resort.

**Senator WATT:** I understand the argument, but it is a factual statement that, at this point in time, Mr Padovan, no money has been expended from the ERF for disaster recovery. That is correct?

**Mr Padovan:** That is correct. No requirement has been identified to spend money.

**Senator WATT:** And, at this point in time, while money has been committed and announced for mitigation projects, no projects have been completed, and there are three projects only that are in preconstruction phase. That is a factual statement, Ms Johnson, based on what you said?

**Ms Johnson:** Yes.

**Senator WATT:** But it's also correct, isn't it, based on the figures that were on the finance department website the other day, that, as of 31 December 2021, the ERF has earned the government \$836 million in investment returns. That is a fact?

**Ms Johnson:** Yes.

**Senator WATT:** This fund has been in operation for three years. Not a cent has been spent on disaster recovery. I know you give reasons for that. Not a single disaster mitigation project has been completed. But we're now up to over \$800 million that it has earned for the government. Minister, isn't it clear that all this fund is doing is racking up money for your government rather than helping disaster victims?

**Senator McKenzie:** Our government has stood shoulder to shoulder with affected communities, whether it's cyclonic activity, whether it's floods, whether it's bushfires, whether indeed it's COVID—

**Senator WATT:** You haven't brought a single project. This fund has earned \$800 million.

**Senator McKenzie:** The officers have walked you through the process of how long it has taken to get jurisdictions—

**Senator WATT:** It's taken three years, and we haven't got a single project to show for it—not a single dollar spent on recovery.

**CHAIR:** Senator Watt, the minister is answering your question.

**Senator McKenzie:** Senator Watt, you've been walked through the process. It is not for a lack of will on the part of this government or indeed the agency to seek to get these projects up and running. I am confident that, the more rounds we're running out of the ERF, the quicker they are going to land in projects. We've never done this before. As the Labor Party know, because you voted for this legislation—

**Senator WATT:** We didn't vote for it to do nothing.

**Senator McKenzie:** this fund is working exactly as it was designed to do.

**Senator WATT:** No, no.

**Senator McKenzie:** You did not move amendments on the floor to change the way it was designed to work in support of the fund.

**Senator WATT:** We actually did. Sorry, Minister, you're wrong. The reason there is mitigation funding available is amendments that we moved. I moved them.

**Senator McKenzie:** This fund has been set up and designed. It's working the way it's meant to be working, and we have supported communities affected by disaster to the tune of over \$12 billion in DRFA alone, in partnership with states.

**CHAIR:** I'm just going to jump in here. Senator Watt, you've been going for almost 20 minutes, and I know Senator McMahon has a very short tranche of questions.

**Senator WATT:** I am happy to wait. I was going to ask some questions about the bushfire recovery grants, but I'm happy if Senator McMahon wants to ask some questions.

**Senator McMAHON:** How has the government supported individuals, businesses and entire communities to recover from the Black Summer bushfires?

**Mr Stone:** The first rollout was the local economic recovery grants. The precise amount for them was \$350 million. Thereafter, there were the grants that were recently announced, and they were across a range of organisations, local governments and the like. When you round up the total amount that has been committed to bushfire recovery, it has now gone to \$2.2 billion. There is still money to come from New South Wales and also Victoria, but it's their prerogative; they will decide when the money rolls out. In Victoria it's \$3.3 million and in New South Wales it's \$28.4 million. That will be in addition to what's already been rolled out.

**Senator McMAHON:** Can you give me an outline of the time line of the grants process and rollout?

**Mr Stone:** In terms of the local economic recovery grants, I inherited those from the bushfire agency. They had the carriage at the beginning—I forget when it was out there—but we completed it. We've been going seven months, and it was about three or four months in that we got that done. More recently, there were the bushfire grants that were announced by Minister McKenzie on Saturday. When did they open?

**Ms Johnson:** They opened on 22 July 2021 and the original closing date was 2 September. Then there was an extension provided to communities, and so applications closed on 6 October 2021.

**Senator McMAHON:** Can I get clarification that the time line that was just given was for the original grants, not the ones that were announced on Saturday?

**Ms Johnson:** That's the time line for the Black Summer bushfire grants that were announced on Saturday.

**Senator McMAHON:** Are you saying that the grants that were announced on Saturday closed on 6 October last year?

**Ms Johnson:** That's correct.

**Senator McMAHON:** Right, so it's the amount that's been increased, not the time line. Is that correct?

**Mr Stone:** Yes, that's correct, over \$100 million extra.

**Senator McMAHON:** I heard the figure of \$2.2 billion in funding. Was that the original amount or the total amount including the extra \$110 million announced on Saturday?

**Mr Stone:** That's everything from the very beginning, including the clean-ups and the additional support. I do have a chronology which I can provide to you if that would assist, but not something to read out here.

**Senator McMAHON:** No, that's fine, I think I've got a good handle on it. The extra \$110 million that Minister McKenzie announced on Saturday will provide extra support and allow extra funding for people that had already applied for grants. Is that correct?

**Mr Stone:** That is correct. The original program had an allocation of \$280 million in total, and the minister, through ERC, was able to negotiate an additional \$110 million in funding. That delivered 524 projects totalling \$390,893,782 in funding for approval by the minister, which was announced on Saturday.

**Senator McMAHON:** We're short on time, but could you quickly tell me about broader recovery and resilience support for other types of disasters?

**Mr Stone:** For example, the floods in North Queensland attracted their own suite of grants and supports. More recently, you would have noticed that the floods from Moree up to the Queensland border at Goondiwindi were DRFA funded. And then, of course, we had the other floods around Maryborough and out to Goomeri and Tansey, and, in your patch, the washout of the Stuart Highway—the road and the rail. That also attracted DRFA funding in different categories. We've been dealing with similar disasters in other parts of South Australia, with bushfires in Western Australia and also interruption to the road network going across to Perth, which has caused major supply-chain disruption.

The flexibility in the system is such that we have a team of people who look at what's required. We rely on the states and the territories to work with us and our recovery support officers, who are also on the ground. Based on that, the Premier or Chief Minister of the jurisdiction of the day will write to the Prime Minister. Requests will be

made. They will be considered by Minister McKenzie, signed off and actioned. I'm pleased to be able to say that more recently, over Christmas, the flood issue around Maryborough, Goomeri and Tansey was actioned within five days. It was a real testament to the officers who worked right through Christmas and new year to get that done.

**Senator McMAHON:** Thank you, Mr Stone. That's pretty good news for parts that are often affected by natural disasters, so I'm very pleased to hear that. Thank you, Chair. That covers all my questions.

**CHAIR:** I will give the call back to Senator Watt. I'm sure he's very cognisant of the fact that we are running behind time quite badly.

**Mr Stone:** Senator Watt, before you start, could I say on the ERF that the money, the interest earned, doesn't go to consolidated revenue.

**Senator WATT:** No, I know that. It builds up in the ERF.

**Mr Stone:** It builds up to be used. I think people—

**Senator WATT:** That's what you say, but it hasn't really been used so far.

**Mr Stone:** We've been using all these other buckets of money, let me call them. We've repurposed money. Let me tell you, we thought the disruption of the supply chain into the Northern Territory and into Western Australia might have been an opportunity, but we were defeated by certain criteria not being met. There were some major economic casualties around trucking companies who were not able to operate. One particular company has had 600 workers off work throughout all of this. So it's not as though it just sits idly and we don't turn our minds to it; we do.

**Senator WATT:** But you just don't spend it. You turn your minds to it, you have a long think about it, you ruminate on it—

**Mr Stone:** It's an easy statement to make.

**Senator WATT:** and it's still not spent.

**Mr Stone:** No, no—

**Senator McKenzie:** This was a fund set up, as you well know, Senator Watt, as a fund of last resort, when all other sources of funding—

**Senator WATT:** I challenge you to find that in any of the legislation.

**Senator McKenzie:** were actually unable to be accessed. When you look at our response to the COVID disaster, the agencies got billions and billions and billions of dollars out the door with the COVID disaster payment and the pandemic leave payment. With the bushfire recovery—whether it's the DRFA piece, whether it's the bushfire recovery grants—a raft of funding sources have gone to supporting individuals, communities and businesses, not just in the immediate response but to build that resilience over the longer term so that the fund remains there, Senator Watt, for a catastrophic event.

**Mr Stone:** Let's take the example—

**Senator WATT:** Chair, can you note that I haven't asked a single question since you gave me the call?

**CHAIR:** Yes, Senator Watt. Ask your questions.

**Senator WATT:** I'll have to put a lot of my questions on notice on a lot of the important programs, like Preparing Australia and other things. With the Black Summer bushfire grants—I don't think Senator McMahon covered this—obviously, now 524 successful applications have been selected, you have made announcements of the individual projects, Minister, have you?

**Senator McKenzie:** Not announcements of individual projects. When I made the announcement in Wodonga on Saturday, I did announce the \$1.9 million to the showgrounds there to house people. But that list has become public today on the NRRA website.

**Mr Stone:** And the grants hub has the responsibility of making the contact and starting to negotiate the paper trail, so there's a reason for—

**Senator McKenzie:** So there's a process the grants hub's going through.

**Senator WATT:** I just wanted to check before I said too much about it; that's all. How many applications did the program receive?

**Ms Johnson:** 1,180.

**Senator WATT:** Of which 524 were successful?

**Ms Johnson:** Correct.

**Senator WATT:** What was the total amount of funding that was requested by those 1,180?

**Ms Johnson:** I don't have it with me.

**Senator WATT:** Could you take that on notice for us, please?

**Ms Johnson:** Yes.

**Mr Stone:** But can I quickly tell you that the grants hubs determine eligibility. If they weren't eligible, they weren't then up to consideration on merit and need.

**Senator WATT:** So some of those 1,180 might not have been eligible?

**Mr Stone:** They weren't.

**Senator WATT:** Maybe you could come back to us on notice as to how many were eligible.

**Mr Stone:** Sure.

**Senator WATT:** When was the list of successful applicants finalised?

**Senator McKenzie:** I signed the brief—I think it was Friday morning last week. The coordinator-general can go to the process of assessment of those applications. A brief arrived in my office on Thursday with recommendations, and I made my decisions and signed off on that on Friday morning.

**Senator WATT:** Senator McMahon sort of touched on this. When Minister Littleproud initially announced this grants program in April last year, he said that funding would be disbursed from December 2021. It has taken an extra two months for that to happen. What's the reason for the delay there?

**Senator McKenzie:** I'll let Shane answer that.

**Mr Stone:** The minister was successful in negotiating an extra \$100 million. We were dealing with a finite number. All of a sudden we had substantially more, which was another reason why we wouldn't have to go to the fund that you keep cross-referencing. ERC and cabinet took the view that, yes, there is an unmet need, and consequently the workload blew out for the panel that was considering the applications on merit and need.

**Senator WATT:** So, even though extra funding was allocated to top up the Black Summer grants, clearly there have been several hundred applicants who were eligible who have missed out. So there were 1,180 applicants—

**Senator McKenzie:** I think that's a false assumption, actually.

**Mr Stone:** Yes.

**Senator WATT:** I'm assuming that 600 of them weren't ineligible.

**Mr Stone:** There were a very large number that were not eligible. We'll take that on notice. We have the figures. There's no secret about who was eligible and not eligible. They then came to the panel. The panel considered each on the basis of whether it was a strong, good application or marginal, and we went through them.

**Senator WATT:** Could you, on notice, come back to us with what the criteria were and how you scored them?

**Mr Stone:** Yes, absolutely. We did have a scoring system.

**Senator WATT:** Or the grants hub might have done that?

**Mr Stone:** No, no.

**Senator WATT:** You did that?

**Mr Stone:** Our panel, which comprised independent members, also had a scoring system, as did the grants hub.

**Senator McKenzie:** It was a very robust process.

**Senator WATT:** But assuming—and I am only assuming—that there were projects that were eligible that missed out on funding, even with the extra funding that was provided, why wouldn't you use the money that's available in the ERF for recovery to support those projects? It's sitting there, available.

**Mr Stone:** My view would be, based on having sat and read every application, that some of them were so marginal that you would question whether it was a good use of taxpayers' money. We do expect people to have a project management plan. We do expect them to demonstrate capacity to deliver on the project and to achieve, in a timely fashion, the completion of the project. We tried to err on the side of accommodating as many people and organisations as we could.

**Senator WATT:** As I say, I am going to need to put a few other questions on notice. Just to wrap up, Mr Stone, do you consider yourself to be an independent public servant or a political player?

**Mr Stone:** I am an independent public servant who is very passionate about the team of people I lead.

**Senator WATT:** The team of people you lead—do you mean in the NRRA?

**Mr Stone:** Yes.

**Senator WATT:** Or in the LNP or the CLP?

**Mr Stone:** No, no—in the agency. These are people who work 24/7, people who work right through Christmas and New Year. And I've got to tell you, Senator, when they see some of the statements that are made—and it's in my opening statement there—they get quite depressed about it. But do you know what's even more important? It's the survivors, because they believe what they see on TV or hear on the radio or read in newspapers and they start to lose hope because they think they're being duded. Well, they're not being duded.

**Senator WATT:** You and I will continue to disagree about that.

**Mr Stone:** Alright. Well—

**Senator WATT:** But you're saying that you consider yourself to be an independent public servant, not a political player?

**Mr Stone:** I'm not a political player.

**Senator WATT:** I'm not only asking about that because of your political background. But I noticed that, in an article in the *Australian* on 6 February this year, only about a week ago, you were quoted as saying that Prime Minister Scott Morrison 'is one of the most authentic public figures I have ever worked with'.

**Mr Stone:** Correct.

**Senator WATT:** Is that appropriate—for an independent public servant to be making those kinds of partisan statements?

**Mr Stone:** I don't consider that partisan. I consider that a statement of fact, because the reality is that I can go to this Prime Minister, on every range of disaster confronting this country, and he acts, and I want to acknowledge that and tell my fellow Australians that we are responding in a way that puts the survivor first.

**Senator WATT:** Can you point me to any other independent public servants who work for this government who have made public statements describing the Prime Minister, or any minister or any politician, as 'one of the most authentic public figures I've ever worked with'? Is there any other public servant who makes comments like that?

**Mr Stone:** I did ask the question of a couple of very experienced secretaries, and they said, 'There is a group of people, like you, whether it's Rod Sims or the commissioner of the ATO,' and they reeled off the names and said, 'They all make public comments, because that's part and parcel of the advocacy for their agencies.'

**Senator WATT:** Well, they make public comments, but I'm not sure they make public comments political in nature like this one. This article goes on to say, of you, Mr Stone:

He told *The Australian* that after the leaking of the text from Nationals leader and Deputy Prime Minister Barnaby Joyce, written when he was a backbencher and describing Morrison as a "hypocrite and liar", he—

you—

thought he would "join the fray".

Is it appropriate, Minister, for an independent public servant like Mr Stone to join the political fray?

**Mr Stone:** I didn't say I'd join the fray.

**Senator WATT:** Well, that's the quote.

**Mr Stone:** The journalist says I joined the fray.

**Senator WATT:** No, no. This is a direct quote from you, and I'm happy to table the article if you'd like to see it. Minister, is it appropriate for an independent public servant to be joining the fray?

**Senator McKenzie:** I think the coordinator-general has made his views very, very clear, and I think that part of that experience and the passion that you've seen here tonight was forged during the northern Queensland floods, when—

**Senator WATT:** Not during his 30-odd years of service to the Country Liberal Party—

**Senator McKenzie:** He and the Prime Minister—

**Senator WATT:** and the Liberal Party?

**CHAIR:** Senator Watt, the minister's responding to the question.

**Senator McKenzie:** flew over thousands of hectares full of carcasses of animals and beasts that had been washed through the flood, and went and actually met with community members affected in the terrible aftermath, of that particular event. I know that the coordinator-general feels very deeply about having—similarly to the Prime Minister—a local approach driven by local need and local concern, and that's what he's been able to bring to his role and what I think he appreciates about the Prime Minister's role in this space that we look after together.

**Senator AYRES:** Chair, I might be experiencing a sort of episode of cognitive dissonance here, but the minister's answer bore absolutely no relationship to Senator Watt's question, and you should direct her to answer the question.

**CHAIR:** I disagree with your assessment there, but we might give the call back to Senator Watt to wrap up, given how over time we are.

**Senator WATT:** I'll give you another one. Minister, further down in this article, Mr Stone describes the Prime Minister as 'the real deal'. Again, Minister, do you consider that it's appropriate for an independent public servant to refer to a prime minister or any politician as 'the real deal' as he joins the fray? Can you think of any other public servant who has made public statements of that kind?

**Senator McKenzie:** It doesn't come to mind, no. I'll take that on notice, Senator Watt.

**Senator WATT:** And I noticed, Mr Stone, you were present for the minister's announcement on the weekend.

**Mr Stone:** I was.

**Senator WATT:** Is it common, Minister, in your experience, for independent public servants to stand with ministers to make those sorts of announcements? My experience is that politicians make announcements, and public servants don't, because of the political nature of those announcements, but Mr Stone was front and centre of that announcement.

**Mr Stone:** I regularly appear with ministers.

**Senator WATT:** Is that normal practice for independent public servants under this government?

**Senator McKenzie:** I think, when we've made announcements in this particular portfolio area, of course it would be sensible to have the coordinator-general there to answer the detailed questions. We've got a suite of officers right around the country who often join us for these announcements. So I don't see anything wrong with that. He's been a long-term—

**Senator WATT:** I've never seen the secretary to the Prime Minister's department stand next to Mr Morrison as he is making a funding announcement, or the secretary to the infrastructure department. That's normally what ministers do.

**Senator McKenzie:** In this case Coordinator-General Stone has been out and about on the ground. He has a wealth of lived experience in this space, and it was highly appropriate for him to be at the announcement.

**Senator WATT:** Front and centre?

**Mr Stone:** Absolutely. And can I tell you that you haven't acknowledged my eulogising of the former premier Anna Bligh—

**Senator McKenzie:** You'll like that one, Senator Watt!

**Mr Stone:** in two drought forums where I have spoken very highly of the role that she played in forging the QRA and QRIDA into existence in Queensland on a bipartisan basis with then opposition leader Lawrence Springborg. So—both sides.

**Senator McKenzie:** They are an agency, not a department, which is why you wouldn't see the secretary. I personally think it's great when people get out of Canberra and get on the ground out in the regions.

**Senator AYRES:** Just finally—

**CHAIR:** Very quickly, Senator Ayres.

**Senator AYRES:** You may think it's great, Minister, but I was listening carefully to what Mr Stone was saying about the disappointment that some of the staff of the NRRRA feel about how these matters are canvassed in public. I've read Mr Stone's opening statement carefully, as promised, and it's a case in point. I should indicate there's no page 7. It may be, Minister, that you've pulled it out. It might have been even hotter than some of the other pages, but—

**CHAIR:** Senator Ayres!

**Senator McKenzie:** Sorry, what are you suggesting, Senator Ayres? What are you suggesting?



**Senator AYRES:** I'm suggesting that there's no page 7, and that the rhetoric in the rest of it is—

**Senator McKenzie:** What are you talking about?

**Senator AYRES:** There is no page 7 in the document. There is a page 6 and a page 8.

**Mr Stone:** No, there's a page 7.

**Senator AYRES:** Not in the document that's been provided to us—

**Mr Stone:** I've got a page 7. Do you want my page 7?

**Senator McKenzie:** We might need to get page 7 photocopied.

**Senator AYRES:** The political rhetoric in here is extraordinary for a public servant. It talks about repeated false claims. It says claims that have been made by opposition spokespeople—including, I assume, Senator Watt and probably me—are completely untrue. It says, '\$150 million is available each year for emergency response. If existing arrangements are not enough'—and Mr Stone, in his judgement, says in his statement as a supposedly independent agency head that 'to date they have been enough'. It goes on.

**Mr Stone:** Which is true.

**Senator AYRES:** And it goes on and on and on.

**Senator McKenzie:** Is there a question, Senator Ayres, speaking of going on and on?

**Senator AYRES:** It talks about misinformation, political pointscore and one-upmanship. It's not sustainable for Mr Stone to continue if he doesn't understand his independent role, is it?

**Senator WATT:** They're the kinds of comments you expect to see from ministers and elected politicians, not from independent public servants.

**Mr Stone:** I'm out there fighting for survivors.

**Senator WATT:** In the political fray?

**Mr Stone:** No, out in the broader community. Whether it's floods, cyclones or fires, I will give them my best, and that includes making sure the misinformation stops.

**Senator AYRES:** Including sticking up for the Prime Minister in the national broadsheet?

**Mr Stone:** Why wouldn't I? He is authentic.

**Senator AYRES:** That will do us.

**CHAIR:** Thank you, Senator Ayres.

**Mr Stone:** You've got me marked, anyway, haven't you?

**Senator WATT:** No.

**Mr Stone:** Yes, you have.

**Senator WATT:** What are you talking about?

**CHAIR:** Order! Let the *Hansard* show that there was a page 7 missing in the version of your opening statement that was circulated to senators, but—

**Senator AYRES:** We now have it.

**CHAIR:** the coordinator-general has passed it to the secretariat and that missing page 7 will be provided to other senators. Thank you very much to the NRRA for attending this evening. Thank you, Minister McKenzie.

#### **Australian National Audit Office**

[22:17]

**CHAIR:** I welcome Senator the Hon. Jonathon Duniam, Assistant Minister for Industry Development; Mr Grant Hehir, Auditor-General of Australia; and officers of the Australian National Audit Office. Auditor-General, do you wish to make an opening statement?

**Mr Hehir:** No, thank you, Senator.

**CHAIR:** Wonderful. Thank you very much. Senator Ayres, I will give you the call.

**Senator AYRES:** Thank you. I have a few questions, firstly, about the Home Affairs Safer Communities program. I think a report was tabled today in the parliament. Mr Boyd, can you confirm that, across all of the relevant funding rounds, I think the office has said:

- Applications were not assessed fully in accordance with the guidelines.

- Funding decisions were not appropriately informed by departmental briefings and, for the majority of decisions, the basis for the decisions was not clearly recorded.

**Mr Boyd:** That's a reasonable summary. Probably on the last point, 54 per cent, so just over half.

**Senator AYRES:** So more than half of funding decisions could be characterised in the way that I've just read out?

**Mr Boyd:** Indeed.

**Senator AYRES:** This fund was overseen by Minister Dutton at the time—that's right, isn't it?

**Mr Boyd:** No. Minister Dutton was one of the decision-makers. There were five rounds, eight selection processes. If I take you to a table, I think at the end of chapter 2 in the audit report, we actually outline who was the decision-maker for each round. It's table 2.2 on page 32 of the audit report. In some cases, the audit report raises an issue around the fact that the minister who actually made the funding decisions wasn't necessarily the minister identified in the guidelines. But putting that to one side—

**Senator AYRES:** Sorry to interrupt you. It's pretty hard to put that to one side, isn't it?

**Mr Boyd:** I wasn't suggesting it was irrelevant. I was saying that in terms of your question about who made the decisions.

**Senator AYRES:** Sorry. Continue.

**Mr Boyd:** I'm saying, in terms of who made the decisions for round 1, it was the Minister for Justice, which was Mr Keenan at the time; for round 2, it was the Assistant Minister for Home Affairs. For round 3, in which there were two streams—an early intervention stream, which was the PCYCs and the like, and the infrastructure stream—it was the Minister for Home Affairs on both occasions, which was Minister Dutton, whom you're referring to. Round 4 was the Assistant Minister for Home Affairs. And there were five streams in round 5, with each decision made by Minister Wood.

**Senator AYRES:** It's true, isn't it, that Minister Dutton made sure that two projects in his own electorate were funded, even though the experts didn't recommend them?

**Mr Boyd:** I believe what you're referring to is—in the report we talk about the two Tasmanian projects that were announced during a by-election campaign and then subsequently applied through this program. It's not in the minister's own electorate, which of course is in Queensland.

**Senator AYRES:** No, I will come to the Braddon ones. Actually, let's go straight to those, then, given the time. Minister Dutton announced funding for two projects in the lead-up to the Braddon by-election, with the then Liberal candidate, despite the grant guidelines not being written and without expert safety advice from his department. That's a reasonable summary of what happened?

**Mr Boyd:** It's probably an incomplete summary, Senator. As we set out in the audit report, the department went through an exercise, after that happened, of presenting options to the minister in terms of 'Do you wish to, if you like, separately carve out an arrangement for these two to receive funding without any competition, or should they be invited to apply and compete with all other applicants through a competitive process?' The minister elected to go with the latter approach, which was essentially how they were asked to apply and be assessed. It was then, through the assessment process, they didn't come up as being those assessors' most meritorious, but they were selected for funding in any event.

**Senator AYRES:** Minister, did you meet Minister Dutton after he took a \$36,000 flight on an RAAF jet to Tasmania to announce these grants?

**Senator Duniam:** I don't believe so, no.

**Senator AYRES:** Mr Boyd, I think you said before what percentage of funding decisions weren't appropriately informed by departmental briefings.

**Mr Boyd:** No, that was in respect of what percentage of those decisions, the basis of those decisions, weren't adequately recorded, if at all. That was 54 per cent. The issue in terms of being informed by department advice—in round 1 we were quite content with the advice in that ministers were actually told, 'This is how they compare against the actual selection criteria,' and given advice, in that respect. From round 2 onwards, they weren't given information against the actual published criteria; they were given a broad strengths-and-weaknesses discussion. The Commonwealth Grant Rules and Guidelines don't permit that approach. They say that the decision-maker needs to be given advice that is specific to the grant guidelines and, in particular, they mention that it has to be against the assessment criteria.

**Senator AYRES:** What about the percentage of funding decisions that didn't have a basis for the decision?

**Mr Boyd:** That's the 54 per cent—didn't have a recorded basis. And that's another obligation under the Commonwealth Grant Rules and Guidelines, that the basis for a decision be recorded. And it's not just any basis—it must be the basis against the program guidelines, which, again, comes back to the eligibility requirements and the assessment criteria.

**Mr Hehir:** Senator, the point about it being recorded is important. We can't make a statement about whether the decisions were made against the guidelines or not. All we can go to is there isn't a record of how the decisions were made.

**Senator AYRES:** But that in itself is unacceptable.

**Mr Hehir:** Appropriate record keeping is important for decision-making.

**Senator AYRES:** Yes.

**Mr Boyd:** And there's a specific requirement in the Commonwealth Grant Rules and Guidelines which says that the decision-maker must record the basis, and that basis must address the program guidelines, those being the criteria. This was specifically introduced when the grants framework came into being, on top of the usual PGPA Act—or FMA Act as it then was—requirement for records to be made. There was an additional requirement put in for grants decision-making to actually record that basis against the guidelines.

**Senator AYRES:** I think we know from previous estimates rounds that, at least during round 3, which I think Minister Dutton was responsible for—

**Mr Boyd:** That's correct, yes.

**Senator AYRES:** 91 per cent of funding ended up in government, Independent or marginal Labor seats. That's correct, isn't it?

**Mr Boyd:** Yes. If you look to the distribution section, which is in chapter 4, we say if you put all the selection processes together, which means just aggregating them across the various rounds—and there are eight selections processes and five rounds—nothing really stands out except for a small number. One of those is round 3, where certainly the projects in coalition seats did better than they were represented in the application population. That's the starting point. If you don't have an application, it's pretty hard to be successful.

**Senator AYRES:** So, in one of the rounds that Minister Dutton supervised, 91 per cent ended up in seats that suited the coalition's political interest?

**Mr Boyd:** That's not a figure from our report.

**Senator AYRES:** I'm saying, for previous estimates, at least on your evidence so far this evening, there was a distribution that favoured the kinds of seats that I described.

**Mr Boyd:** Ninety-one per cent is not our figure.

**Senator AYRES:** No, I'm not—

**Mr Hehir:** In our report, as Mr Boyd said, our analysis was largely on the aggregate basis. We looked to see whether, across the programs, there was any distributional bias. In the report we found that the allocation was largely consistent with applications, as Mr Boyd said.

**Senator AYRES:** In the other rounds, yes.

**Mr Boyd:** If you go to paragraph 4.39, the first dot point talks about round 3, where we say projects located solely in coalition held marginal electorates and, to a lesser extent, coalition held fairly safe electorates represented a higher proportion of approved applications in both numerical and dollar terms than they were represented in the application population. The converse of that was that the funding awarded to projects located in safe and fairly safe electorates held by the ALP was lower in comparison to the application population. There is a footnote off that which gives you the actual percentages. Ninety-one per cent is not a figure we looked at. Things such as the 91 per cent figure is analysis done based on 'here's the decision'. But, from our perspective, a key thing in grants decision-making is that you have to have applications to make a decision on. The key thing we do in our audit reports, which people can't do based on public data, is look at what the application population looks like, what is recommended and what is decided, to see whether there are any differences. If all the applications you receive have only one political colour to them, ipso facto all the funding has to go there. So the key thing for us is to see—

**Senator AYRES:** Yes, you follow that through. If that's the case and there's no reason for making funding decisions and some of them ineligible, it's pretty hard not to join the dots, isn't it?

**Mr Boyd:** The Commonwealth Grant Rules and Guidelines were designed to try and guard against grant programs being in that sort of scenario. They are required to have a set of program guidelines. They are required

to have criteria. Departments are required to do an assessment. They are required to brief on the merits as an outcome of that assessment, and decision-makers either agree with that or, if they disagree with that, they have to record the basis for why they disagree with that—and, again, it's against the guidelines. So you should have a closed loop which explains everything in a transparent way.

**Senator AYRES:** Yes. Minister, it's not a surprise that the government has knocked off an independent integrity commission, given this kind of evidence.

**Senator Duniam:** If Labor would look like to support—

**Senator AYRES:** Can I take you to another rorted Morrison government fund, the Urban Congestion Fund. Mr Boyd, the finance references committee conducted an inquiry into that matter last year. It reported late last year. You said:

People weren't asked to just bring forward their car park projects; they were asked to bring forward their UCF projects, which included car parks. The focus of our work after chapter 2 of the report, which is on design more broadly, was on the car park component ...

I think that the committee recommended that the ANAO complete an audit of the entire UCF program as part of its 2022-23 audit program. Has there been any consideration, Mr Hehir, of whether or not the ANAO will take that proposal under consideration as part of its forward work program?

**Mr Hehir:** We have certainly been considering our forward work program and trying to put together a draft to circulate to the JCPAA in the next couple of weeks.

**Senator AYRES:** And you're not in a position to indicate what's on that list. Is that right?

**Mr Hehir:** I'd prefer to finalise the list before saying what's on it. We are hoping to circulate it by the end of this month.

**Senator AYRES:** There was a question on notice—I think 323—for the Department of the Prime Minister and Cabinet, where they confirmed for us they had not seen a top 20 marginals list related to the car parks program. Can you remind me, Mr Boyd, who had visibility of that list? Was it just the Prime Minister's office and the minister's office?

**Mr Boyd:** The list was prepared within the portfolio minister's office. From the evidence we saw, there were discussions and engagement about that. But we didn't see examples of this list being sent back and forth, for example.

**Senator AYRES:** Prime Minister and Cabinet say they didn't see it, but you're saying you couldn't see to whom it had been distributed.

**Mr Boyd:** I have no evidence that it was distributed to PMO. I know it was prepared within the portfolio minister's office and was being used within that office to coordinate the canvassing process that went on.

**Senator AYRES:** Do you know where this colour coded spreadsheet went, Minister?

**Senator Duniam:** The colour coded spreadsheet?

**Senator AYRES:** If you had been paying attention—

**Mr Boyd:** There's no colour coded spreadsheet.

**Senator AYRES:** The list of marginal—

**Senator Duniam:** Your creative interpretation of what's been said here has backfired on you, Senator Ayres.

**Senator AYRES:** The list of projects and marginal seats that was prepared.

**Senator Duniam:** Where did it go to?

**Senator AYRES:** Yes.

**Senator Duniam:** Not having been a part of this process, I don't know, Senator Ayres.

**Senator AYRES:** I want to ask you about some other reports. There's an ATO performance audit, I think, addressing superannuation guarantee noncompliance. Is that still on track? It was to be delivered in mid-February, I think—

**Ms Jago:** That audit is expected to be tabled later, in March.

**Senator AYRES:** Later in March?

**Ms Jago:** Yes, late March.

**Senator AYRES:** The last time we looked, I think the website indicated February. Is there a reason for the delay?

**Ms Jago:** Just our team meeting to finalise the audit. We are expecting to table it in March.

**Mr Hehir:** We do bulk updates of the website every few weeks—

**Senator AYRES:** Does the impending dissolution of the parliament have any impact on the timing of the release of reports?

**Mr Hehir:** The Auditor-General Act requires audit reports to be tabled as soon as practicable after they're completed. As long as it's not a double dissolution, we can still table reports.

**Senator AYRES:** I have some questions for you about Auditor-General Report No. 37 of 2019-20. I think it's in relation to the procurement of garrison support and welfare services on Nauru. For context, Canstruct International is a company run by a group of major Liberal donors who made at least 11 secret donations to the LNP, including personal fundraisers for Minister Dutton—and it was, of course, Minister Dutton who awarded Canstruct this contract, which is now worth over \$1.8 billion. When the contract was awarded, the company had no employees. It generated no revenue, it held no assets and it had no experience in delivering the kinds of services that it was supposed to perform, and the department's own technical evaluation team concluded that Canstruct had 'not demonstrated sufficient technical understanding to provide the required services' just a year before the company was finally awarded the contract. I'm not asking you to comment on that background, but I think we had some discussion in the last estimates that the department had engaged KPMG to conduct a financial strength assessment in relation to the Canstruct International Pty Ltd. Are you aware of that?

**Mr Hehir:** Yes.

**Senator AYRES:** The title of that document is *Financial strength assessment of Canstruct International Pty Ltd*. I think when the Audit Office reviewed that financial strength assessment, as part of its audit, it understood that the assessment related to Canstruct International Pty Ltd. That's correct, isn't it?

**Mr Hehir:** That's correct.

**Senator AYRES:** But, in fact, the assessment related to an entirely different entity, Canstruct Pty Ltd. That's correct, isn't it?

**Mr Hehir:** That's correct.

**Senator AYRES:** That company has nothing at all to do with the commercial relationship between the department and Canstruct International Pty Ltd.

**Mr Hehir:** I'm not certain that that's completely correct. My recollection is—but it is just my recollection—that the company which the financial analysis was done on had provided some comfort to the department on the finances of Canstruct, but it wasn't a documented thing. They were related parties.

**CHAIR:** I think they provided the financial guarantee or something.

**Mr Hehir:** I think that's right.

**Senator AYRES:** I think in a question on notice following the last Senate estimates hearing, because we did go backwards and forwards about this issue, the office said that the document titled *Financial strength assessment of Canstruct International Pty Ltd* was misleading. That's correct, isn't it?

**Mr Hehir:** From our point of view, the document appeared to—we took it relating to an entity which it didn't relate to.

**Senator AYRES:** Yes. I think the office said, 'The department acknowledge that the evaluation documentation did not clearly identify the actual contracting entity and stated it would, in future, ensure that its documentation fully reflects all relevant considerations.'

**Mr Hehir:** Yes.

**Senator AYRES:** But it's not just that the evaluation didn't clearly identify the actual contracting entity, is it? It's that it didn't identify the contracting entity at all. It's quite a serious problem.

**Mr Hehir:** It's hard for me to comment on things which we didn't audit.

**Senator AYRES:** Yes. And you were provided with that documentation, which purported to be—

**Mr Hehir:** We didn't audit the documentation. All we were doing, in that part of the audit, was looking at their due diligence. There were four contracts that we audited and we commented on the fact that they purported to do financial due diligence on four entities. In the report we point out that, with one of those entities, the due diligence wasn't done on the entity. In—

**Senator AYRES:** Sorry to interrupt, but that was the only due diligence done, wasn't it?

**Mr Hehir:** That's my understanding, yes.

**Senator AYRES:** So there's a contract for friends of the minister, donors to the minister, that eventually turns into a \$1.8 billion contract, and the only due diligence that was done was for a company that you are not in a position to say bore any relationship to the entity that actually was contracted for the work. There was no competitive tender process. It's pretty hard to explain. I'm not saying you did it. You have relied upon the material that the department has provided you, and that is a reasonable thing to do. It's not a criticism of you. I don't understand how something that is so obviously improper has been allowed to come into being.

**CHAIR:** Is that a question, Senator Ayres?

**Senator AYRES:** It had a rising inflection at the end. I think it was.

**CHAIR:** We might need a bit more than that. I'm just going to jump in here. We have 20 minutes to go. Senator Patrick has five minutes of questions for the ANAO, and Senator Roberts has a 10-minute block for the Digital Transformation Agency, so can you wrap this up in the next five minutes, please, Senator Ayres.

**Senator AYRES:** Yes, I think I can.

**CHAIR:** Thank you. I know you can!

**Senator AYRES:** You've said that it's misleading. How was the financial strength assessment or information about the financial strength assessment provided to you? Was there an oath or affirmation?

**Mr Hehir:** We accessed the documents.

**Senator AYRES:** In a search, you accessed the documents?

**Mr Hehir:** Yes. Most of our auditing is done by cooperative processes, so the department give us access to their systems and we access all of their documents.

**Senator AYRES:** Are you satisfied that no offence has been committed here in the provision of the document?

**Mr Hehir:** Not within the provision of the document. They gave us the document that existed. In subsequent conversations with them, they purport that they were aware of what the assessment was of at the time.

**Senator AYRES:** You're saying that in subsequent discussions—

**Mr Hehir:** But we haven't audited any of this, so they're really questions more for Home Affairs than for us.

**Senator AYRES:** But were they saying to you that they were aware that it was the incorrect, unrelated entity, or that they weren't aware?

**Mr Hehir:** Sorry, I'll just have to check that.

**Ms Jago:** They were aware, when they evaluated the request-for-quotation response, that a Canstruct related entity was the respondent. However, they acknowledged that their evaluation documentation did not clearly identify the actual contracting entity and that they'd work to ensure that that documentation fully reflects that in the future.

**Senator AYRES:** I'll tell you what it looks like. And I'm a bit mystified, I have to say. Given the answer to the question on notice, Mr Hehir, I don't understand why the Audit Office hasn't gone back to this, because this is what it looks like to me. Minister Dutton and the Department of Home Affairs decided to award a contract, without a competitive tender, that ultimately became a \$1.8 billion contract, to a company that had no staff, generated no revenue and held no assets. That decision was made before there was any due diligence on the company that was going to be provided with this rivers-of-gold Commonwealth contract. After the decision was made, the department conducted a due diligence process, but there were no contingency plans put in place at all, and the due diligence process was of the wrong company. And, on the basis of that misleading assessment, the department gave Canstruct International a contract that was worth \$1.8 billion worth of taxpayers' money. As I understand it, there's no security, there are no guarantees; the whole financial strength assessment process was a charade.

What steps has the Audit Office taken, given the office conducted the investigation and then had to circle back and say, 'Actually, this important aspect of the information that was provided to us was misleading'? What steps have you undertaken to satisfy yourself that the way I've described this is not correct?

**CHAIR:** Last question, Senator Ayres.

**Mr Hehir:** What we've done since the last hearing is engage with the department to get clear what the financial assessment was and get the facts there, and we've put a note onto our audit report to point the reader to the fact that the financial strength assessment which we believed did relate to Canstruct International didn't. We provided clarity in our report on that, so that a reader wouldn't be misled on that. Our conclusion in the audit was about whether the department appropriately managed the procurement process for the garrison support. On the

basis of that particular piece of evidence changing, I don't believe it materially goes to the conclusion of our audit report. It's not an unusual circumstance for a company to establish a separate contracting entity to enter into a contract. It happens in contracting arrangements. The due diligence wasn't appropriate, but our finding with respect to the procurements for those four contracts that we looked at was that the department's approach was largely appropriate, and I'm still comfortable with that conclusion.

**CHAIR:** Thank you, Senator Ayres. Senator Patrick, you have the call. I will be keeping you strictly to five minutes.

**Senator PATRICK:** Auditor-General, have you seen the letter that has been submitted to the JCPAA on the Leppington Triangle by the person who was investigated by the AFP over the acquisitions?

**Mr Hehir:** The submission was brought to our attention by the JCPAA. I'm not certain who it comes from.

**Senator PATRICK:** It's redacted, but it is the person who ended up getting investigated by the AFP. He or she raises some very concerning remarks. I'll just read a couple of them:

- the Auditor-General mistakenly placed the Leppington Triangle in an agriculture precinct, which would mistakenly infer a lower value for the property ...
- the Auditor-General mistakenly overlooked the differences in valuation standards as they apply to 'fair value' and 'market value' ...
- the Auditor-General did not seek or have access to additional land valuation advice and, therefore, the Auditor-General had no evidence that the land price was 'inflated' ...

He or she goes on to say that all public officials exercise due care and to say:

It is apparent that the Auditor-General did not exercise a reasonable degree of care and diligence in publishing a conclusion, without evidence, that the Leppington Triangle price was inflated. This unreasonable conduct may constitute negligence.

Those are pretty strong words.

**Mr Hehir:** Yes.

**Senator PATRICK:** I don't want to ambush you with this. Have you looked at this, and are you thinking about going to relook at this? What's your response to this going to be?

**Mr Hehir:** The JCPAA has asked us to put in a submission, if we wish, in response to that submission, which they published on their website today, I think.

**Senator PATRICK:** Yes. That's where I got it from.

**Mr Hehir:** We are going to—

**Senator PATRICK:** You are going to respond to this?

**Mr Hehir:** My feeling at the moment is that we'll put in a submission to the JCPAA in response to that.

**Senator PATRICK:** Evidence has been provided that supports his or her claims in relation to what the office did.

**Mr Hehir:** Some of it does, on my quick reading. As you know, when we do an audit, we go in and, when we're auditing something like whether the department appropriately carried out an arrangement, what we look at is what the department's records are for the arrangement. We don't go in and redo their working tests to see whether their work was done. We didn't do any valuations for this because all we did was publish what valuations had been done on the land, for example. There are issues like that. We can only go on the evidence that sits in the department at the time. So we'll go through it all.

**Senator PATRICK:** I note this person has been anonymised by way of the committee, but I'm sure you know who this person is because, at the end of your audit, you raised concerns that were then referred, I think, to the police. In your audit, did you actually interview or contact or engage with the person that has made the submission?

**Mr Hehir:** That's a really difficult question to answer, because, to answer it, I might go towards giving a view about who I think it might be, which may or may not be correct. Our audit is carried out on the department, and we predominantly work off the records whenever we do an audit. We engage with the department and whoever the department puts in front of us. We usually only go to the point of interviewing people if there is some gap in the record which we think is inappropriate. As you know, in our legislation the interview process tends to become a very formal one and we don't go there very often. Particularly in this one—where I formed a view during the course of the audit that I couldn't understand things, and we're not an investigatory body, so maybe the police should do it—I didn't want to go down that formal route of interviewing people, because if the police—

**Senator PATRICK:** It could have prejudiced their investigation. I understand the difficult balance. Thank you very much.

**CHAIR:** Thank you to the Audit Office for coming in this evening. I'm sure other questions will be placed on notice for you.

### Digital Transformation Agency

[22:52]

**CHAIR:** Welcome. Mr Fechner, given the late hour, if you have an opening statement I will ask you to table it.

**Mr Fechner:** I have no opening statement.

**CHAIR:** Thank you. Senator Roberts, you have the call.

**Senator ROBERTS:** The Digital Transformation Agency has concluded an enterprise deal with Google in respect of Google Analytics 360. The Digital Transformation Agency charges Australian government agency websites for their Google data, which I assume is a cost recovery exercise. How much are you paying Google for this service, either 2021 actual or 2022 projected?

**Mr Fechner:** Thank you for the question. The Google Analytics service is put in place to ensure that we have good information on the utilisation and feedback of government services. It provides for the continuous improvement of our government activities.

**Senator ROBERTS:** What does it cost?

**Mr Fechner:** We have our head of procurement, Michelle Tuck, here. Can we take that on notice to find out what the actual costs are for Google Analytics? We'll take it on notice.

**Senator ROBERTS:** Google can obviously see all the data that you can see; after all, they just sell it back to you. On a normal private website, Google would be able to see identifying information for the website visitor or entity—IP address, device identification, sign-in if they're logged into Chrome et cetera. Google would then store that data in the data file it already maintains for that entity. Google's data file does not include names but does include locality, age, gender, employment, purchases, interests, travel, search and web history, and much, much more. Is Google adding data about private citizens who use a government website to Google's own data records?

**Mr Fechner:** I'm happy to seek advice on that, but the actions of Google and those particular activities would be subject to Google and any prevailing laws.

**Senator ROBERTS:** So it's quite easy for them to harvest the data, because nothing precludes them from doing so?

**Mr Fechner:** There are aspects of data. The DTA generally refers to the digital components of these. There are some specific data areas that are subject to PM&C. Potentially that question could be referred to PM&C.

**Senator ROBERTS:** Are we able to get them on notice from you?

**Mr Fechner:** If it's an issue for PM&C, I'd say it has to go on notice with them.

**Senator ROBERTS:** Let's change topics to the federal government's style guide—this will interest the chair. Recently the Senate rejected the use of gendered language and sent the style guide back for review. Who instructed the Digital Transformation Agency to degender language in the style guide?

**Mr Fechner:** The style guides have actually moved to be the responsibility of the Australian Public Service Commission. You'd need to refer questions about the use of the style guide to them.

**Senator ROBERTS:** So I'd have to ask them for a hard copy of it?

**Mr Fechner:** They're responsible for the management of the style guides.

**Senator ROBERTS:** Let's turn to cloud.gov.au. As I understand it, this was an attempt to create a single standard for cloud storage of data, including websites, across the whole of the federal government. Did I get that right?

**Mr Fechner:** That was the original intention.

**Senator ROBERTS:** 'Original'. This project was shut in 2021 and the source code for this web standard was put into GitHub, which as I understand it is a repository for code—freely accessible—where anyone can download it. Could a hacker learn anything about what could be in use in federal government websites and data service, based on the information that they can freely obtain and is contained in the GitHub files?

**Mr Fechner:** The purpose of cloud.gov.au was to produce safe, secure and freely available access for government entities to cloud services environments. As that capability progressed, it was clear that the market



was able to provide those services. And the intent behind the security has largely been replaced with other components we have, such as the hosting certification framework, which accredits cloud service providers to make sure the controls that are in place for those services sit with government so we have protections about where that data is stored, how it is transited and who has access to it. So cloud.gov.au became redundant for that purpose.

**Senator ROBERTS:** I understand that. But, apparently, the web standard was put into GitHub, where anybody can access it.

**Mr Fechner:** It's my understanding, right now, that the services that are using that function are all being decommissioned or moved onto alternative platforms.

**Senator ROBERTS:** But they're already there on GitHub, so they can be accessed.

**Mr Fechner:** GitHub is a repository for code services. It's not the code service itself; it's separate. It is actually the description of the language. If it's going into those GitHub repositories and it's open source—meaning it's freely available—it really is in the public domain. Much of GitHub is actually contributed to by parties other than government, and it becomes a community of development services.

**Senator ROBERTS:** So why was this project cancelled?

**Mr Fechner:** The highly available public cloud services, the high security associated with those things, and the addition of controls such as the hosting certification framework added specific controls to make sure government was clear where government data was stored, how it was moved and that, where that data was being moved by others, including third parties, it was safe and secure in those locations.

**Senator ROBERTS:** How much did this undelivered project cost across its project life, from January 2018 to September 2021?

**Mr Fechner:** I can take that on notice. I commenced on 13 October, so it's a bit before my time for those specifics.

**Senator ROBERTS:** You and I are both scared of the wrath of the chair, so we'll move on! This is not the only terminal outcome of one of the Digital Transformation Agency's programs. May I reference the Whole-of-Government Platforms program, which was retired. Once again, the source code for the six different projects under this program was put into GitHub for anyone to download—but you've explained that. So my question is the same as before: what was the cost of the Whole-of-Government Platforms program across its project life?

**Mr Fechner:** Can I take that on notice, again?

**Senator ROBERTS:** Sure.

**CHAIR:** Last question, Senator Roberts.

**Senator ROBERTS:** MyGov is a joint venture between Services Australia and the Digital Transformation Agency. The app is proving problematic at best, with a rating of 2.4 out of five. That being less than half, on my understanding it is a fail. So we can see a pattern emerging here: any attempt to modernise and standardise federal government data formats, storage and handling apparently runs into turf wars and gets terminated. I'm leading into the question, Chair. Now we have the Digital Identity, another of the Digital Transformation Agency's projects, which will be part of life for every Australian. In many ways, it will enable control of many Australians in their lives, so a rating of 2.4 won't cut it. How long will it take the Digital Transformation Agency to put in place the framework necessary for the Digital Identity to function at 5, not 2.4, how much will that cost, and what are your chances of success?

**Mr Fechner:** I think I'd like to seek a clarification on that. MyGov does not currently have an app that's in the public domain. They're currently in a private beta for it. There is no myGov app that's currently available.

**Senator ROBERTS:** Okay. So come to the question, then. There is a history of failures going on in this area of digital transformation. How long will it take the Digital Transformation Agency to put in place the framework necessary for the Digital Identity to function at a rating of 5 out of 5, how much will that cost, and what are your chances of success?

**Mr Fechner:** Senator, again to clarify, the App Store ratings generally rate the particular functions in there. The Digital Identity is a framework, and it allows multiple providers to go through. Part of that framework allows for the government to have a Digital Identity, and that's the myGov ID as it currently stands. There is an app associated with that, and that app is simply about ensuring that people can enrol with Digital Identity for the government. Its actual main purpose is to provide access to safe, secure services through government via that identity, in place of providing other digital credentials. So the use—

*Senator O'Sullivan interjecting—*

**Mr Fechner:** Yes. So it's part of the aspect, but also the stepping up of credentials, that sits in that space.

**Senator ROBERTS:** Thank you, Chair.

**CHAIR:** Thank you very much, Senator Roberts. That concludes the committee's examination of agencies for today. Thank you very much to the DTA for waiting around until 10 to 11. We really appreciate it. The committee will resume tomorrow to examine the Finance portfolio. I would like to thank the ministers and officers who have given evidence to the committee today, and I'd like to thank Hansard and Broadcasting for their assistance.

**Committee adjourned at 23:02**