



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FINANCE AND PUBLIC ADMINISTRATION
LEGISLATION COMMITTEE

Estimates

THURSDAY, 22 OCTOBER 2020

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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Thursday, 22 October 2020

Members in attendance: Senators Abetz, Ayres, Farrell, Fierravanti-Wells, Gallagher, McLachlan, O'Sullivan, Paterson, Scarr, Waters.

FINANCE PORTFOLIO

In Attendance

Senator Cormann, Minister for Finance

Senator Seselja, Assistant Minister for Finance, Charities and Electoral Matters

Department of Finance

Executive

Ms Rosemary Huxtable PSM, Secretary

Outcome 1 – Support sustainable Australian Government finances through providing high quality policy advice and operational support to government and Commonwealth entities to maintain effective and efficient use of public resources.

Mr Matt Yannopoulos PSM, Deputy Secretary, Budget and Financial Reporting

Ms Amanda Lee, First Assistant Secretary, Budget and Financial Reporting

Mr Scott Austin, Acting First Assistant Secretary, Budget and Financial Reporting

Mr Martin Graham, First Assistant Secretary, Budget and Financial Reporting

Mr Libor Pelecky, First Assistant Secretary, Budget and Financial Reporting

Dr Stein Helgeby, Deputy Secretary, Governance and Resource Management

Ms Tracey Carroll, First Assistant Secretary, Governance and Resource Management

Mr Scott Dilley, First Assistant Secretary, Governance and Resource Management

Mr Rod Schreiber, Acting First Assistant Secretary, Governance and Resource Management

Ms Clare Walsh, Deputy Secretary, Business Enabling Services

Ms Vivianne Johnson, First Assistant Secretary, Business Enabling Services

Mr John Sheridan, First Assistant Secretary, Business Enabling Services

Mr Iain Scott, First Assistant Secretary, Business Enabling Services

Mr Grant Stevens, Chief Financial Officer, Business Enabling Services

Outcome 2 – Support an efficient and high-performing public sector through providing leadership to Commonwealth entities in ongoing improvements to public sector governance, including through systems, frameworks, policy, advice, and service delivery.

Mr Andrew Jagers, Deputy Secretary, Commercial and Government Services

Ms Stacie Hall, First Assistant Secretary, Commercial and Government Services

Mr Nicholas Hunt, First Assistant Secretary, Commercial and Government Services

Mr Andrew Danks, Acting First Assistant Secretary, Commercial and Government Services

Mr Hew Atkin, Assistant Secretary, Commercial and Government Services

Mr Matthew Whitfort, Assistant Secretary, Commercial and Government Services

Mr Gareth Sebar, Assistant Secretary, Commercial and Government Services

Dr Stein Helgeby, Deputy Secretary, Governance and Resource Management

Ms Tracey Carroll, First Assistant Secretary, Governance and Resource Management
Mr Scott Dilley, First Assistant Secretary, Governance and Resource Management
Mr Rod Schreiber, Acting First Assistant Secretary, Governance and Resource Management
Mr Neil Robertson, Assistant Secretary, Governance and Resource Management
Mr Grant Stevens, Chief Financial Officer, Business Enabling Services
Ms Trish Johnston, Assistant Secretary, Governance and Resource Management
Ms Lucelle Veneros, Acting Deputy Secretary, Shared Services Transformation
Mr Josh Ryan, First Assistant Secretary, Shared Services Transformation
Ms Clare Walsh, Deputy Secretary, Business Enabling Services
Ms Vivianne Johnson, First Assistant Secretary, Business Enabling Services
Mr John Sheridan, First Assistant Secretary, Business Enabling Services
Mr Iain Scott, First Assistant Secretary, Business Enabling Services

Outcome 3 - Support for Parliamentarians and others as required by the Australian Government through the delivery of, and advice on, entitlements and targeted assistance

Ms Clare Walsh, Deputy Secretary, Business Enabling Services
Mr David De Silva, First Assistant Secretary, Business Enabling Services [by video link]
Ms Lauren Barons, Assistant Secretary, Business Enabling Services
Mr Brent Heaver, Assistant Secretary, Business Enabling Services
Ms Dana Sutton, Assistant Secretary, Business Enabling Services

General

Mr John Sheridan, First Assistant Secretary, Business Enabling Services
Mr Iain Scott, First Assistant Secretary, Business Enabling Services
Mr Grant Stevens, Chief Financial Officer, Business Enabling Services

ASC Pty Ltd

Mr Stuart Whiley, Chief Executive Officer and Managing Director [by video link]
Mr Ashley Menadue, Chief Financial Officer [by video link]

Australian Naval Infrastructure Pty Ltd

Mr Andrew Seaton, Managing Director and Chief Executive Officer [by video link]

Future Fund Management Agency

Dr Raphael Arndt, Chief Investment Officer [by video link]
Ms Sue Brake, Acting Chief Investment Officer [by video link]
Dr Stein Helgeby, Deputy Secretary, Governance and Resource Management, Department of Finance
Mr Scott Dilley, First Assistant Secretary, Governance and Resource Management, Department of Finance

Mr Neil Robertson, Assistant Secretary, Governance and Resource Management, Department of Finance

Commonwealth Superannuation Corporation

Mr Damian Hill, Chief Executive Officer

Mr Andrew Young, Chief Operating Officer

Dr Stein Helgeby, Deputy Secretary, Governance and Resource Management, Department of Finance

Mr Scott Dille, First Assistant Secretary, Governance and Resource Management, Department of Finance

Mr Neil Robertson, Assistant Secretary, Governance and Resource Management, Department of Finance

Independent Parliamentary Expenses Authority

Ms Annwyn Godwin, Chief Executive Officer

Mr Michael Frost, Branch Manager

Ms Petra Gartmann, Branch Manager

Ms Christina Grant, Branch Manager

Australian Electoral Commission

Mr Tom Rogers, Electoral Commissioner

Mr Jeff Pope, Deputy Electoral Commissioner [by video link]

Mr Tim Courtney, First Assistant Commissioner

Ms Lynn White, First Assistant Commissioner

Mr Thomas Ryan, First Assistant Commissioner

Mr Andrew Johnson, Acting Chief Legal Officer

Committee met at 08:59

CHAIR (Senator Paterson): I declare open this meeting of the Senate Finance and Public Administration Legislation Committee. Today the committee will continue its examination of the budget estimates for 2020-21. It will hear from the department and agencies of the Finance portfolio, as listed on today's program. 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 the budget estimates 2020-21 hearings are conducted in a 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 has fixed 4 December 2020 as the date for the return of answers to questions taken on notice. The committee has also scheduled a further hearing for tomorrow to examine the cross-portfolio Indigenous matters.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten

or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence 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 resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution 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*.

Today, we will continue the examination of outcome 1 of the Department of Finance, and then proceed to the areas in outcome 2 for which Senator Cormann has responsibility, and then outcome 3. At the completion of outcome 3, the committee will examine the Independent Parliamentary Expenses Authority before returning to the areas of outcome 2 for which Senator Seselja is responsible. Following that, the committee will examine the Australian Electoral Commission.

Department of Finance

[09:02]

CHAIR: I welcome back the Minister for Finance, Senator the Hon. Mathias Cormann, and Ms Rosemary Huxtable, Secretary of the Department of Finance. I assume that neither of you wish to make an opening statement at this time. As such, I give the call to Senator Ayres.

Senator AYRES: Good morning, Minister, Ms Huxtable and everyone else. It doesn't seem like very long ago that we were all together. I think that this line of questioning will

have some crossover with the questions that Senator Patrick asked yesterday in relation to procurement. We will just try to work through it in a way that avoids duplication.

CHAIR: Can I just clarify something before you do that, Senator?

Senator AYRES: Yes.

CHAIR: Do you think that that means that there are there is no further questions in outcome 1? Or are you likely to have other outcome 1 questions?

Senator AYRES: We will have more. I understand that new procurement policy guidelines were issued in August. What prompted Finance to do that?

Mr Jagers: We issued updated guidance material in relation to how entities consider, under the Commonwealth Procurement Rules, sections 4.7 and 4.8, broader benefits to the Australian economy. We had original guidance material in place following the inclusion of those clauses in the Commonwealth Procurement Rules, and we had a number of discussions with agencies. We have a Centre of Procurement Excellence within the department that talks with Commonwealth entities that do procurement. We also have a senior procurement officials meeting that we have with procurement officials around Commonwealth agencies. Through feedback about the information that's available in the guidance material and the utility of that information, we decided that we would update that material and provide a little more guidance to the agencies. We worked with a number of agencies, particularly with the Department of Defence but others as well, in developing an update to that material so it was a bit clearer for Commonwealth officials when they were conducting procurements about what it meant to take into account the broader benefits to the Australian economy. That material, as Mr Danks indicated yesterday, steps through some of those considerations that officials might take into account. It is a requirement that the broader benefits to the Australian economy are considered in procurements above certain thresholds. This is just to provide that extra bit of information about how they might practically go about that.

Senator AYRES: Can I take it from that answer that it was in response to feedback from the agencies? It wasn't a direction from government to sharpen up the guidelines?

Mr Jagers: I don't believe there was any direction from government to sharpen up the guidelines. I believe that some of the feedback came directly to me from the Department of Defence. Other feedback would have come to Mr Danks's division as well. I might to see if he has anything he can add to that.

Mr Danks: In addition to what Mr Jagers was saying, one of the reasons we updated that guidance was in response to the government's response to the Joint Select Committee on Government Procurement. There are some recommendations there about making the guidance clearer. It was also, as Mr Jagers touched on, reflecting the increased government priority on strengthening sustainable growth and Defence sovereign industry capability.

Senator AYRES: So particularly in Defence.

Mr Danks: Yes, particularly Defence. We were quite closely with—

Senator AYRES: Is it right to say, given the large Defence procurements and the view of the government that there should be local procurement, that Defence was finding it hard to wrestle with the guidelines as they were in order to achieve that objective, or—

Mr Danks: I think Defence has a priority on increasing Australian industry content in their procurements. I think the addition of some case studies and some greater guidance in our guidance strengthens their ability to be able to engage with Australian industry.

Ms Huxtable: Just to add to that, we have been working with Defence for some time on these issues. I chair a procurement roundtable with industry representatives and also with the secretaries of a number of Commonwealth agencies, including Defence. Defence, as I think you noted, is a very large procurer and has a very strong procurement capability. We have been keen to work closely with them to ensure that our guidance is informed by their knowledge and experience and is also relevant to them. And it was useful, we thought, to include a number of case studies, in particular, in that guidance to give very practical examples to officials around what this element of the Procurement Rules meant in practice. It was some time in the development in the work we had done with Defence that really marks several years of partnership on these issues. Clearly there were also the joint select committee recommendations. It was timely to get this out.

Senator AYRES: And how was the rest of the Public Service made aware that the documents had been published?

Ms Huxtable: As the officers said, there is a procurement officials group that meets quite regularly. So there is a community of practice, you could say, around procurement. There are officials from most departments. Mr Danks can provide more, as the person who works in that area. Most departments are represented through that network. So we are engaging quite actively across Commonwealth agencies.

Mr Danks: As the Secretary said, the Senior Procurement Officials Reference Group is comprised of several hundred Commonwealth procuring officials. When the guidance got updated we sent a notification to the group to let them know it's on the website. It is publicly available on our website as well.

Senator AYRES: The Senior Procurement Officials Reference Group.

Mr Danks: The acronym is SPORG.

Senator AYRES: It just occurred to me. Does SPORG meet weekly or fortnightly?

Mr Danks: The SPORG normally meets quarterly, but because of COVID it has been a bit restricted. We are doing an intensive couple of weeks of sessions with that group in the coming weeks, where we will have single-topic discussions—

Senator AYRES: A SPORG deep dive! Are all of the changes relating to mandatory requirements under the Procurement Rules?

Mr Danks: I don't understand your question.

Senator AYRES: Do all the changes in the documents relate to mandatory requirements under the Procurement Rules?

Mr Danks: The economic benefit guidance links to 4.7 and 4.8. That is a mandatory requirement to consider economic benefits for tenders over \$4 million or for construction projects over \$7.5 million. From that perspective it would be a mandatory consideration for those tenders.

Senator AYRES: At paragraph 10 on page 2 of the document, uses an example of a clause which it says entities may include to put into a contract to ensure suppliers comply with relevant laws. It says:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in any jurisdiction in which any part of the Contract is performed.

I would have thought that a clause such as that for contracts would be mandatory.

Ms Huxtable: I am struggling to see where you are. Have you got a paragraph reference there?

Senator AYRES: My notes say paragraph 10. Perhaps it is paragraph 10 on page 2. I've got it lifted out for me here, so it is not much use to you.

Ms Huxtable: Just so I'm clear, this is the consideration of broader domestic economic benefits in procurement?

Senator AYRES: Consideration of relevant regulations and/or frameworks.

Mr Danks: I'm not sure what document you're referring to, sorry Senator.

Ms Huxtable: The August 2020 note is titled *Consideration of broader domestic economic benefits in procurement*.

Senator AYRES: I have an August 2020 note which is titled *Consideration of relevant regulations and/or frameworks*.

Ms Huxtable: I'm not sure what that is.

Mr Danks: Was that from the Department of Finance website?

Senator AYRES: It has a Department of Finance header.

Ms Huxtable: I'll search for it. We'll see if we can find it.

Senator AYRES: I'm very happy to hand it over, because I have another copy. It's titled August 2020. I assume it's part of the same tranche of documents.

Ms Huxtable: It's a separate document. I have it here.

Senator AYRES: I will come to the document you are referring to, Ms Huxtable. On page 2 at paragraph 10 it says:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in any jurisdiction in which any part of the Contract is performed.

I would have thought that's not a 'may', that's a mandatory requirement.

Mr Danks: This is an extract from our Commonwealth Contracting Suite. The Commonwealth Contracting Suite is mandatory for all contracts up to \$200,000. It is up to individual agencies to determine what parts of that contracting suite are appropriate for contracts above that.

Senator Cormann: That's why it's 'may'.

Senator AYRES: But surely, what's to stop that being a mandatory requirement?

Senator Cormann: Because it wouldn't be appropriate to have that as a blanket mandatory requirement. That would be taking it too far. It's a requirement in place up to a certain threshold. That's the appropriate way to go about it.

Senator AYRES: Sorry; I don't understand. Compliance with the law seems like a pretty self-evident—

Senator Cormann: Compliance with the law—indeed. That's not what you're asking.

Senator AYRES: Yes; I'm asking whether that should be a mandatory provision of contracts that the Commonwealth—

Senator Cormann: But you're asking about a policy position.

Senator AYRES: Yes.

Senator Cormann: And what I'm saying is the policy position is that there's a differentiated approach, depending on the contract value, and that's what the officer just explained to you.

Senator AYRES: It's mandatory up to what value?

Mr Danks: The Commonwealth Contracting Suite is mandatory up to \$200,000, and above that it's up to individual agencies to determine the clauses that are relevant. We have a clause bank which agencies can use that have similar clauses that talk about compliance with laws, but that specific drafting is for a contract under \$200,000.

Senator AYRES: What possible reason could an agency have for not including a contract clause like that in a contract for goods or services? Why would an agency decide that it wasn't going to be mandatory for subcontractors or employees to comply with the law?

Mr Jagers: The way that the—

Senator Cormann: The fact that you have to comply with the law is actually self-evident. You don't have to contractually commit somebody to do something that people are required to do. Compliance with the law is a given.

Senator AYRES: Well, yes. Who the Commonwealth contracts with for the supply of goods and services is the question here. Does it allow agencies to contract with companies that have a poor record of compliance?

Mr Jagers: The way this is structured is that, for simpler contracts with a value under \$200,000, there's a standard contract.

Senator AYRES: You don't want to muck around with them. I understand that.

Mr Jagers: But, above that amount, contracts are usually bespoke for the particular circumstances, so we don't have a contract that is mandatory for people to use, because they have to be bespoke for every situation. What we do provide is a clause bank with certain clauses that can be dropped into those contracts, but you'd expect every entity to take into account all of the relevant factors and requirements in a contract. There's no negative implication here because—

Senator AYRES: I understand the mechanics of it. I'm asking why. What's the policy reason for allowing for a lower level of compliance?

Ms Huxtable: I don't think you can assume that, Senator.

Senator AYRES: What are the reasons—

Ms Huxtable: This is really a streamlining mechanism for more simple, lower-value contracts to have access to a consistent set of requirements that they drop into contracts and that's it, and that's required. When you get above those amounts, you get into, as Mr Jagers said, much more bespoke individual sets of arrangements which will be crafted depending on the goods and services that had been procured. Yes; all of these contracts will have these requirements in them, but we're saying, 'You don't have to use this mandatory set. You can draw from the clause bank,' which they do and they will get their own legal advice and have their own procedures and practices around their contracting arrangements. It's not saying they're not subject to these laws; it's just that we have streamlined that under the \$250,000 band.

Senator AYRES: There are some provisions that are mandatory, though, for contracts over \$200,000, I assume.

Mr Danks: The provisions that are mandatory are in the Commonwealth Procurement Rules. That gives what agencies must do. The supporting documentation provides guidance on how procuring officials should consider how to do those procurements. The master is captured in the Commonwealth Procurement Rules. The other guidance provides—

Senator AYRES: You can see the problem, can't you? If you're building a bridge or an airport runway or whatever the large project is, the Department of Finance guidelines that are issued say: 'Well, it's not a mandatory requirement. You can give the contract to a firm that's got a record of non compliance with state, Commonwealth or territory legislation.' If there's a breach of state or territory legislation during the course of the contract being executed, it gives no recourse for the Commonwealth to try to find some remedy.

Mr Danks: I think the master is in 10.19 of the CPRs and says:

Officials must make reasonable enquiries that the procurement is carried out considering relevant regulations and/or regulatory frameworks, including but not limited to tenderers' practices regarding:

- a. labour regulations, including ethical employment practices;
- b. workplace, health and safety; and
- c. environmental impacts.

Senator AYRES: But this C.C.21 does a bit of work, doesn't it?

Mr Danks: It does, but it's driven from 10.19, which is paragraph 1 of *Consideration of relevant regulations and/or frameworks*. It quotes that CPR reference.

Senator AYRES: Paragraph 13 says:

... requirements to comply with regulations are necessary and appropriate, and do not add unnecessary burden to potential suppliers or discriminate against potential suppliers, particularly SMEs.

Do you have any examples of such requirements that might be unnecessary or inappropriate that would add a burden to suppliers or discriminate against them?

Mr Danks: Not off the top of my head, but I can take it on notice and provide some examples.

Senator AYRES: I'd be interested to see it. It does beg the question why large suppliers are being provided with a different framework to the smaller ones. It seems like a reasonable mandatory requirement to me.

Mr Jagers: The framework is the same under the Commonwealth Procurement Rules. There's just a standard contracting arrangement for smaller contracts and then bespoke contracts are still required to meet the same standards in the Commonwealth Procurement Rules.

Senator AYRES: Similarly, in the 'Application and verification of standards' document, which I might give you a moment to come to—

Mr Danks: What was that document called, again?

Senator AYRES: It's entitled 'Application and verification of standards'. I can give you a copy of that too, if you like. I'll give you a moment to get to it.

Mr Jagers: We have that document.

Senator AYRES: It's a similar problem, isn't it? Paragraph 13(a) of the document states that entities should consider 'whether the inclusion of standards is necessary'—that is, Australian standards—to meet the requirements of the procurement, and whether this outweighs the additional burden imposed on suppliers'.

Mr Jagers: Could you give me that reference again?

Senator AYRES: Paragraph 13(a).

Mr Jagers: Paragraph 13(a) of the document 'Application and verification of standards'?

Senator AYRES: Yes—issued in August 2020. It's on page 3.

Ms Huxtable: There's no para 13 on this. Just read that again and we might be able to pick it up. Could you just read that again, Senator?

Senator AYRES: I can—yes. 'Entity procurement officials should—

Ms Huxtable: It's paragraph 10, I think.

Senator AYRES: Are we looking at different documents?

Ms Huxtable: We might be.

Senator AYRES: Mine has a header of August 2020 on each page.

Mr Jagers: We do have it now.

Senator AYRES: If we're having difficulty here finding the right document, does that mean there's the old version and a new version available for people now?

Mr Jagers: I think that there is a—

Senator AYRES: Are you searching your files or are you looking on the publicly-available—

Mr Jagers: I was looking at the publicly-available to get it as quickly as I could. I did pick up a previous version in a search.

Ms Huxtable: That's probably because we didn't search very effectively.

Mr Jagers: It's probably not an effective search.

Senator AYRES: So, if we've achieved nothing else this morning, let's make sure there's just the one version available for—

Mr Jagers: Yes, Senator. We will check that.

Senator AYRES: suppliers out there.

Mr Jagers: Can you give me the reference again?

Senator AYRES: It's paragraph 13 and 13(a). It says:

Entity procurement officials should:

a. consider and identify if a standard is to be applied to the goods and/or services being procured ...

And the dot point says:

As part of planning, consideration should be given to whether the inclusion of standards is necessary to meet the requirements of the procurement, and whether this outweighs the additional burden imposed on suppliers.

Do you have any examples of where officials should be waiving a requirement for suppliers to apply the appropriate standards?

Mr Danks: We don't have any examples with us today. We can take that on notice. But I think what this is getting at is we shouldn't be putting tenderers to additional expense and setting a higher standard than what is actually required for delivery services. If there's an Australian standard required, certainly that should be held to. If there are other standards that could be held to for a procurement, then we should be looking at the one that is the minimum required in order to deliver the output the government is after.

Senator AYRES: That has an impact on the market, doesn't it? If a company is applying the Australian standards—the relevant standards in whatever the area of provision of goods and services that it's engaged in—and department officials decide to waive that requirement, they are put at a competitive disadvantage.

Mr Danks: In a tender process, that would happen during the request for tender process. So everybody would be aware of the requirements that the entity is seeking. There would be no one party who would be disadvantaged over another. They'd all still be responding to the same request.

Senator AYRES: But, for companies that tender, their whole life is not one contract; it's a series of contracts, public and private. If their policy position is, 'We're going to comply with the law 100 per cent of the time and we're going to apply the relevant standards in every case', the slippage that you provide puts them at a competitive disadvantage, doesn't it?

Mr Jagers: What this guidance is trying to do is to ensure that the Commonwealth procurer is clear in what it's after when it's going to a procurement—and the market understands that.

Senator AYRES: I can see what it's trying to do, but the policy effect is as I have described, isn't it?

Mr Jagers: But if there's a standard that the government needs to meet—it may not be an Australian standard; it might be a standard in the quality of those services or goods—that some suppliers can't meet. What we're indicating is you don't want to put the whole market to compete on a tender when only a segment of the market might be able to achieve a particular standard. This is about being clear on what the standard is that's required.

Senator AYRES: That's not what the guidelines say. They don't say, 'If the standard is not relevant, don't apply it.'

Mr Jagers: They're saying that, as part of the planning, consideration will be given to whether the inclusion of standards is necessary to meet the requirements of the procurement

and whether this outweighs that burden imposed on suppliers. There may be a burden on suppliers in addressing a tender with a particular set of standards.

Senator AYRES: There quite often is, isn't there? That's the point of standards; they require everybody to—

Ms Huxtable: [inaudible] unnecessary standards in this case. What this is going to is ensuring that the procurement engagement is correct and fit for purpose for what is required. In the discussions that we have had with agencies and with external entities, there is a concern that procurement arrangements tend to get loaded up with perhaps things that were required in previous procurements that just get brought across and added in and they're not necessary. So they're adding an additional burden that both feeds into cost and is unnecessary in terms of achieving the outcome that's been procured.

All this is saying is that procurement officials should be clear about what it is that they're procuring and clear that the requirements that are included will achieve that purpose and not be almost an unnecessary by-product that isn't required for achieving that purpose. So it's not about diminishing in any way the need to adhere to appropriate standards; it's about ensuring that people are actually considering, 'Is this a requirement for this particular tender?' I think we have seen many examples where previous contracts get kind of brought across and added to rather than really being considered on their own merits at that point in time. That's the feedback that we get. It's particularly an issue for SMEs. We certainly can take on notice some examples that have been raised with us in that regard.

Senator AYRES: I understand that you say that you're not in a position to provide examples today, but, in both those cases, with compliance with the law as an application of standards, I'd like to see some real-world examples of how that's been applied.

Mr Jagers: We'll take that on notice.

CHAIR: Senator Ayres, are you coming to the conclusion of that section?

Senator AYRES: I have another few minutes to go.

CHAIR: Okay. Let me know when you are.

Senator AYRES: I want to turn to the document *Consideration of broader domestic economic benefits in procurement*. Let's make sure we are working off the same document.

Ms Huxtable: I have August 2020.

Senator AYRES: Yes; *Consideration of broader domestic economic benefits in procurement*. In my enthusiasm to find the right attachment I've lost my page. Paragraphs 9 and 13 basically say that second-round economic effects should not be considered when assessing domestic economic benefits. What does this mean for suppliers who put forward a credible case on the second-round economic benefits for their bids?

Mr Danks: I think the effect of that would be that those second-round effects would not be taken into account as part of an economic benefit consideration under this guidance. I think there is an example that kind of covered that off as well. I am just trying to find it.

Senator AYRES: Could you construct a consideration of broader domestic economic benefits that included second-round economic benefits if they stacked up? It wouldn't necessarily discriminate against suppliers who couldn't prove any second-round effects, but why wouldn't you take that into account?

Mr Danks: I think it is the difficulty of trying to quantify what the second-round benefits would be. The further you get away from the first-round benefit the more difficult it is to be able to quantify and assess. The case that I was talking about is 'Case study one—Tenderer three'. It goes through an example of where they identify the further economic benefits given to employees previously on welfare buying additional goods and services, and the evaluation is:

The flow on benefits of buying additional goods and services ... cannot be considered, as this is a second round economic benefit, not a direct economic benefit of the procurement to the Australian economy.

I think that is the nub of it—it's the direct economic benefit to the economy that we are trying to assess and measure here.

Ms Huxtable: If I could take you to paragraph 20. That sets out a whole range of examples of what would comprise an economic benefit. You can see that there are many examples there.

Senator AYRES: Yes, I'd do want to come to that paragraph, thank you, Ms Huxtable. So claims that a potential supplier might make about second-round benefits—for instance, jobs that are generated as a result of the way that they manage a project—aren't going to be taken into account. You say that it is just too difficult to assess.

Ms Huxtable: That's right.

Mr Danks: It would depend on what you meant by 'jobs'. If you're employing workers in Australia, that is a first-round benefit, and that gets counted under paragraph 20.

Senator AYRES: Can you give me an example of a second-round economic benefit that is difficult to assess?

Ms Huxtable: That is in that case study on page 9.

Senator AYRES: Yes.

Ms Huxtable: There's employing workers—first round; and providing low-cost training services—first round. The flow-on benefits of buying additional goods and services is a second-round benefit. So it's not the direct employment impacts; it is one removed from that.

Senator AYRES: Thank you, Ms Huxtable. Paragraph 20 sets out ways that suppliers could provide an economic benefit. What are the limitations on making one of those examples a mandatory requirement, or at least a mandatory thing to look for when assessing the domestic economic benefit?

Mr Danks: Because we think economic benefits will be bespoke to each procurement. We want to leave it to accountable authorities and procuring officials to work out how they would like to assess economic benefits consistent with the guidance. But we have given a list there. As we have said, it's examples but not limited to. There could be other examples of direct economic benefits to the Australian economy that are not listed here, but we think that's a pretty comprehensive list of what could be captured. If we started to identify which ones are mandatory or to give weightings that would not take into account the bespoke nature of our procurement framework and the devolved nature of the procurement framework.

Ms Huxtable: Just noting that this also fits under paragraph 4.7 of the Procurement Rules, which goes to the economic benefit. Under that paragraph officials are required to consider

the economic benefit of the procurement to the Australian economy. So this is trying to go to the next step. You have that requirement already, then the next step is how to support procuring officials to consider that requirement in the Procurement Rules. This is by way of an explanatory note, I guess, to provide guidance, case studies, practical examples to support procurement officials.

Mr Danks: It will be open to agencies to take this guidance to the next level and create some agency specific—

Senator AYRES: I look at line item 6 or 7 there, in paragraph 20, paying taxes in Australia. It's hard to see why getting potential suppliers to demonstrate that they have a record of—it's not just about tax compliance; it's about whether they pay tax in Australia. That would be of significant benefit to the Commonwealth, wouldn't it?

Ms Huxtable: But that's in this list.

Mr Danks: That's one way to demonstrate—

Senator AYRES: But it's not a mandatory requirement.

Ms Huxtable: But it sits within a requirement. That's what I'm saying. This is an explanatory note that sits under a requirement that says that officials must consider economic benefits. This is explaining to officials this is how you interpret that and these are the things you should be considering.

Senator AYRES: That's how an official might interpret it, but it's not a mandatory provision in a contract.

Ms Huxtable: It's a guidance note that relates to a mandatory requirement. I feel like we are a little at cross purposes. This is giving examples and guidance to officials about how they apply that requirement.

Senator AYRES: In relation to the overall statistics for Australian government procurement contracts, is the 2019-2020 financial year information available yet?

Mr Danks: No, not as yet.

Senator AYRES: Is it far away?

Mr Danks: It's not far away. It will be in the coming four to six weeks. You may be aware that we engage with ABS and ATO to work out our SME statistics, because it's quite complex and there are privacy consideration issues. That work is coming to an end and we should be in a position to publish in the coming weeks.

Senator AYRES: Thank you.

CHAIR: What I want to do with committee's consent is to impose a bit of structure here. We have been jumping around a lot, and thank you to the department, as usual, for facilitating that. I have other senators wanting to know when they can come in for their particular sections. Could we have a stocktake of how we're going with outcome 1 and how much longer we think we'll need them for, and if we're agreed that we're done with that we can move on to outcome 2.

Senator GALLAGHER: It is a bit hard to do that.

CHAIR: That's normally how we do it.

Senator GALLAGHER: This has been said as outcome 1 and 2 until 12.30 today, according to the program.

CHAIR: Not really. The way we always do it is we go through outcomes sequentially. We have been flexible and facilitated a bit of jumping around, but my preference is to do it as sequentially as possible. We never dismiss officials if there are more questions for them. I'm not interested in doing that.

Senator GALLAGHER: Fair enough. My only issue is that sometimes we have let outcome 1 go and that it has turned out we can't ask questions because they've gone.

CHAIR: That's a reasonable concern.

Senator GALLAGHER: This does say outcomes 1 and 2 continued until 12:30.

CHAIR: Continued from the program from yesterday, which sets it out in order. I've now been chairing this committee for four years, and this is how we do it.

Senator GALLAGHER: I think we do have some outcome 1 questions left. We will try to get ourselves in order so we can do outcome 1 and finish it.

Senator SCARR: Ms Huxtable, I want to tease out the issue which Senator Ayres was raising in relation to procurement. Can I lead you through how I think the procurement process works in terms of considering matters such as whether or not a company pays its taxes. As I understand it, first, under the Procurement Rules consideration has to be given, generally, to the compliance record, reputation et cetera of whoever is tendering for a government contract. That would include matters such as whether or not they have been subject to proceedings overseas for tax evasion et cetera and their general compliance record. Secondly, clause 4.7 of the newly published rules makes it very clear that, in addition to the value for money, officials are required—so it's mandatory—to consider the economic benefit of the procurement to the Australian economy. Then the document we referred to subsequently referred to direct economic effect as including whether or not taxes are going to be paid in Australia.

Ms Huxtable: That's correct.

Senator SCARR: So to that extent the mandatory requirement for officials to consider direct economic benefit to Australia encapsulates the concept of whether or not a company is going to pay taxes in Australia, because that's included in that concept under the second document. Is that a fair summation?

Ms Huxtable: Yes. The guidance material that we are providing is seeking to give examples to procuring officials as to how they apply those mandatory requirements under the Procurement Rules. So I think we have lent a lot more heavily into the guidance notes and working with officials to see where they might be identifying any concerns or have questions or questions that frequently arise. We are seeking all the time to really update those guidance notes and to be as constructive as we can be, noting that the procurement framework is an evolved one.

Senator SCARR: And there is a structure there. You can follow it through from the Commonwealth Procurement Rules to the guidance notes, the examples et cetera.

Ms Huxtable: Exactly. And there is a continuous renewal and improvement in the process.

Senator SCARR: A second area of questions I had was in relation to this concept of the drafting of particular clauses. The first observation I would put you, from my experience, anyway, of drafting procurement contracts in the private sector and negotiations, is that as soon as you hit a certain threshold of a contract, it's going to be a negotiation with the other side, and the other side, whoever they are, are going to have their own views with respect to the particular drafting of a particular clause and what it means in the context of the parameters of that contract and all the different ins and outs of the commercial context. So it's a fluid situation in which the government entity needs to have some sort of flexibility to respond to issues which are raised by the counterparty who they are in negotiation with to achieve a balance, which is documented in the contract, which fairly sets out the rights and obligations of both parties. Is that a reasonable articulation of why there might be that flexibility around whether or not a clause has to be set out, as per the examples in the contract suite?

Mr Danks: That's correct. As much as possible we try to harmonise those clauses so it is easier for business to engage with government. But you are absolutely correct. Where there are higher-value contracts there is a negotiation, a to and fro, between government and supplier, and we have to have that flexibility to be able to negotiate on a clause-by-clause basis.

Senator SCARR: The other point I would put you—again, this is based on my own experience in the private sector, certainly in the mining industry—if I was negotiating with someone who was going to build a \$1 billion plant, the raft of obligations, standards, references to particular legislation, what I require the counterparty to commit to, in terms of processes, procedures and standards, is going to be different from a contract I enter into with perhaps the person who is going to mow the grass around the plant. Is that a fair observation?

Mr Danks: Absolutely. The obligations in a contract always link to the value and the risk and complexity. With those large contracts that you're talking about there, there would be a greater focus on the standards and compliance with laws.

Senator SCARR: So this is really driven by commonsense?

Mr Danks: Yes.

Senator SCARR: That's a good answer.

Senator GALLAGHER: We have quite a bit on outcome 1. If I just work through those, is that your preference?

CHAIR: That would be great.

Senator GALLAGHER: Under Budget Paper No. 4 and Budget Paper No. 2, I've got some questions about the APS additional resources. There are quite a lot of measures in this budget which provide extra supplementation to various departments with the title of the measure being 'additional resources' or 'additional funding'. Minister, when it says 'additional funding', it seems to be over four years. When you read it, it appears to be for conducting the core business of that department. Is this an acknowledgement that these agencies have lost too much money through efficiency dividends or cuts?

Senator Cormann: No. We make, as we always have, decisions in every budget and budget update about the appropriate resourcing for individual agencies based on the evolving priorities of the government in the context that we're in. We've got regular budget and budget updates, and these matters, including resourcing of all of the agencies, are always under

review between budget and budget updates. Adjustments are made depending on what the requirements are at a particular point in time.

Senator GALLAGHER: These are adjustments for four years going into their core funding. Even the word 'core operations' is being used.

Senator Cormann: That is precisely my point. We make judgements at every budget and budget update on what the expected resourcing requirements of all the agencies are going to be moving forward, based on, obviously, what is happening in terms of the demand for the relevant services that are being provided and what the priorities are of the government. There are a whole range of factors that come into this, and it's always been our approach that we've got to make these judgements at every budget and budget update.

Senator GALLAGHER: In response to that, these aren't new responsibilities. When you work through the measures across departments that talk about additional funding as opposed to specific projects, they're not to do anything new. It's to support them doing their existing responsibilities.

Senator Cormann: Again, I've just mentioned to you there are a number of different things that fit into it. One is what is happening in the evolving situation in the economy or the community—what is happening in terms of the level of demand for a particular type of service and what the respective evolving policy priorities of the government are. There are a range of factors that fit into it. Those factors are always under review, and judgements are made in the lead-up to every budget and budget update as appropriate in relation to the appropriate resourcing of agencies. That is what we've done in every previous budget, and that's what we're doing in this budget. In that context, of course, the objective is to ensure that government administration is as efficient, as effective and as productive as possible—that we deliver the essential services that Australians rely on from an administrative point of view with the appropriate level of public service resources: as much as necessary, as little as possible and with the Public Service being as effective, as efficient and as productive as possible.

Senator GALLAGHER: What role does Finance play in—you have responsibility for Budget Paper No. 4, don't you?

Senator Cormann: Budget Paper No. 4 is mine, yes.

Senator GALLAGHER: What about Budget Paper No. 2?

Senator Cormann: That is measures, so Budget Paper No. 2 is the Treasurer and me. I look after the expenditure measures. Obviously, the document is for both of us. But in terms of sharing, I look after expenditure and the Treasurer looks after—

Senator GALLAGHER: So there is crossover on this subject between the two books. Ms Huxtable, can you tell me how you work with the agencies to determine what the requirements are for additional funding? If I take ANSTO, for example, under this budget they get an extra \$238 million and the description is 'To ensure the long-term safety quality and are liability of core operations'. It is a large supplementation for them. Do they come to you with a figure of \$238 million?

Ms Huxtable: Budget Paper No. 4 is basically reporting on agency resourcing. All the budget papers are reporting mechanisms and what they are reporting are, in many instances, decisions of government. In the case of all of the measures that are printed in Budget Paper

No. 2, they are recording the decisions of government that have been taken in the budget context. So, where you talk about ANSTO, then a proposal would come forward through a new policy proposal that would go through the process that we support, in terms of the ERC process, the preparation of briefing, the costings process—and when a decision is taken by government, then it is published in the next economic update.

Senator GALLAGHER: Do they come to you with the figure or with a position, which you then cost for the government, or is there a negotiation that goes on between you and the agency to work out whether there is a problem with resourcing and then what the cost is to fix that, and then government considers that?

Ms Huxtable: There wouldn't be a one-size-fits-all here. I think we talked about it early yesterday—generally, when a new policy proposal is coming forward, the proposing entity or minister will have done that underpinning work that looks at the costs of the proposal, the benefits, how the benefits would be realised, the resourcing they require, and we would go through that assurance process going to the entity and working with them to be assured around the veracity of that costing. Then, in addition to that, there is a policy advising process, which is more around what our advice to government is, in terms of whether this is something that should be supported—there are other ways of doing it, whether now is not the time, whatever that may be. The outcome of that process is a publication in the relevant parts of the budget papers. Some of that will be in the resourcing section and some will be in the measures sections. So it is no different to any other proposal that is being brought forward in the budget process.

Senator GALLAGHER: You don't have a different process for public service resourcing? It is not money for a specific program or a policy decision of the government; it's more about funding business, funding public service business?

Ms Huxtable: But if they are coming forward, requesting additional resourcing, then it will go through the same process. There isn't some separate process to say that, if you need additional resourcing, come through some separate process, because at the end of the day it is all about receiving additional funding for specific purposes.

Senator GALLAGHER: Such as doing their core responsibilities?

Ms Huxtable: Well, whatever those purposes may be.

Senator GALLAGHER: In actual fact, where there is a specific project, like the digital initiative, which is spread across a number of different agencies, it is explained in a different way. There are about 10 where it is just additional resourcing. It seems to me it is just for core public service business, particularly in agencies that have been complaining—if you take the ABS, which has been saying they haven't had enough money for years, all of a sudden it gets fixed in this budget.

Senator Cormann: All agencies across government always have a view that they should have more resources. That is the lot—

Senator GALLAGHER: You seem to have acknowledged that today.

Senator Cormann: You make judgments about specific agencies.

Senator Scarr interjecting—

CHAIR: Order!

Senator Cormann: If we provided the resources that every agency thinks they should have, the budget—

Senator GALLAGHER: It's not funny. It's a core responsibility.

Senator Cormann: would be in a much worse position, let me tell you.

Senator GALLAGHER: But you've made cuts to every single one of these agencies that are now getting supplemented, so isn't it clear that your cuts have stopped them from being able to do their core business?

Senator Cormann: As you did during your entire period in government, we've applied an efficiency dividend—that is quite right.

Senator GALLAGHER: And an additional efficiency dividend.

Senator Cormann: We are making judgements as appropriate.

Senator GALLAGHER: Now you're having to pay that back.

Senator Cormann: You boosted the efficiency dividend.

Senator GALLAGHER: It's not about us, Minister.

Senator Cormann: It is.

Senator GALLAGHER: It's not about the Labor Party. We haven't been making the decisions for seven years.

CHAIR: Order, Senator Gallagher! We were off to such a good start this morning. Let's keep that going.

Senator Cormann: The efficiency dividend is very important, as it was under you. Under you, it was massively increased towards the end, but of course it's important that we continue to review. Where additional resourcing is required, on the basis of proper considerations, then, of course, these decisions are made.

Senator GALLAGHER: Every single one of these that are getting additional funding has had substantial reductions in its budget over the years, and now you're having to supplement them for the next four years to do their core work, because of those cuts.

Senator Cormann: So what are you actually arguing for? Are you arguing that we should not provide additional resources to the ABS? I'm trying to understand what your argument is.

Senator GALLAGHER: My point is that the strategy you embarked on, which was to pare government right back, has failed and you are now having to supplement it so that you can actually deliver the services.

Senator Cormann: No. I completely reject that. You see, this is the illogical nature of the conversation that we had yesterday and today. We pursued six years of budget repair.

Senator GALLAGHER: It's not about the Labor Party! It's about your budget.

CHAIR: Order! Order!

Senator Cormann: Let me just explain to you. We pursued six years of budget repair, including making sure that we reduced the size of the Public Service back to a more sustainable level, given the budget mess that we inherited. You recognised that we cut back some of the funding during the period when we had to get the budget back into balance.

Senator GALLAGHER: Some of the funding?

Senator Cormann: And yesterday you were complaining that we were spending too much. Yesterday you were effectively complaining we were spending too much.

Senator GALLAGHER: No, I've never said that—not once.

Senator Cormann: That's precisely what you said.

Senator GALLAGHER: No.

Senator Cormann: You complained about the fact that the debt position was too high.

Senator GALLAGHER: No.

Senator Cormann: Well, the debt position was too high because of the spending growth trajectory that we inherited.

Senator GALLAGHER: No.

Senator Cormann: And we did take it down because of the savings we made. So you're complaining at the same time about our savings and about too much spending. That doesn't quite work.

Senator GALLAGHER: No, I'm commenting on your failed strategy.

Senator Cormann: No, the strategy worked. It got the budget back into balance.

Senator GALLAGHER: You promised the Australian people—

CHAIR: Order!

Senator AYRES: Chair, I think the problem here that I've observed over the course of the last 48 hours—

Senator SCARR: And participated in.

CHAIR: Order!

Senator AYRES: and maybe, to be fair to Senator Scarr, made worse from time to time, is that on our side hope springs eternal: where we see a question, we see the potential of an answer. Senator Cormann, on the other hand, sees a potential argument. It would be terrific, and possibly consistent with the purpose of the estimates process, if Senator Cormann tried, just for this last little bit, to answer the questions.

Senator Cormann: What I would say to you in response is—

Senator AYRES: Here we go again!

Senator Cormann: What I would say to you on that point of order is this: the thing that I've always understood during my 13½ years in this place is that on that side you ask the questions and on this side—

Senator AYRES: You do whatever you like!

CHAIR: Order!

Senator Cormann: you answer the questions. Let me tell you: I remember sitting on that side, bowling up the questions, and I believe that I'm significantly more helpful than what I experienced when I was sitting in your position.

CHAIR: In any case, what would help me, as chair, is if we made sure that the questions were questions and not statements, and then I think you'll have a good chance of getting concise, to-the-point answers to your questions.

Senator AYRES: Well, let's see how with go over the next couple of hours, then.

CHAIR: That would be good.

Senator Cormann: Political questions will provoke political answers. That is also something that I will give you by way of gentle advice.

Senator GALLAGHER: I'm actually trying to explore the budget decisions.

Senator Cormann: You're saying that there was no political edge to this, that you were not lacing it with political—

CHAIR: I don't think it's really all that productive to comment on each other's questions or answers. Let's just stick to our respective roles of asking requests and answering questions, if we can.

Senator GALLAGHER: Okay. It seems to me that, after years of cutting the Public Service, you are now having to supplement it in order for it to do its core responsibilities. That is what the budget—

Senator Cormann: Well—

Senator GALLAGHER: If I can just finish—

Senator Cormann: Well, that's a statement; it's not a question.

Senator GALLAGHER: Minister, if I can just finish—

CHAIR: Order, Minister!

Senator GALLAGHER: You talk over the top of me constantly.

CHAIR: Senator Gallagher, I think there have been a few people guilty of that—

Senator GALLAGHER: Well, I am less guilty.

Senator Cormann: Including you.

Senator GALLAGHER: On the spectrum of guilt, I am less guilty than the minister.

Senator Cormann: That is not true.

Senator GALLAGHER: If I could just finish—

CHAIR: Order! I feel a little bit like Chris Wallace at the debate here.

Senator Cormann: It would be good to get a question as opposed to a statement.

CHAIR: Let's not debate who is more or less guilty.

Senator Ayres interjecting—

CHAIR: Senator Ayres, that's not helpful. Let's not debate who's more or less guilty. Let's just be responsible for ourselves, regulate ourselves, ask our questions and answer questions, but allow an appropriate gap in between.

Senator GALLAGHER: Do you accept that the range of new measures for additional funding in this budget is as a direct result of your continual cuts to the Public Service, which has reduced its capability to perform its core responsibilities?

Senator Cormann: No. Let me put context around this. When we—

Senator GALLAGHER: Well, why do they need all this money?

CHAIR: Senator Gallagher!

Senator Cormann: When we came into government, 14,473 redundancies were already underway as a result of decisions that were made by your government. We're not quibbling with it. You boosted the efficiency dividend, and that was the effect of it. Those cuts were backed into the budget of almost all departments and other agencies, and these job losses were variously in progress or planned. Analysis that was provided by the Department of Finance in the estimates process in 2013 indeed revealed that only 846 of those 14,473 Labor redundancies had funding in the final Labor budget, which means that, overwhelmingly, those redundancies were not funded.

We had to take into account the impact on the budget bottom line of those redundancies not being properly funded by the previous government. I can refer you to the estimates hearings of 19 November 2013, where Mr David Tune, then secretary of Finance, talked through those details. Since then, we have continued to apply an efficiency dividend across the board and, where appropriate for individual agencies that were able to make a case about the need for additional resourcing, provide additional resourcing. That is, in our judgement, the appropriate way to go about it. You ensure that the approach is one that encourages productivity improvements and efficiencies across the board but where individual agencies can make a case that additional resources should be provided given the demand for their services, given the priorities of the government, given the economic and broader social context—then, of course, that is what we do in the lead-up to every budget and every budget update, and that is what we have done.

The approach that we have taken has helped us return the budget to balance in 2018-19. It helped us ensure that we were on track for a surplus in 2019-20 over the entire period of the forward estimates and the medium term in the 2019-20 budget. But of course we were hit by a one-in-100-year pandemic, which has had a very significant negative impact on our budget bottom line and has also had a significant impact in terms of the resourcing requirements for relevant agencies across government. I think that the approach we have taken was appropriate and has helped put Australia in a comparatively strong fiscal position compared to just about any other advanced economy around the world.

Senator GALLAGHER: In relation to the national institutions, there's a measure where the eight arts portfolio entities are given extra supplementation for experiencing a decline in external revenue due to the impacts of COVID-19. It's about \$22.9 million in a one-off year. What role did Finance have in assessing that and the final number that was reached? It doesn't, in my reading of it, compensate for the shortfall in external revenue in that one year.

Senator Cormann: Obviously the measure comes forward out of the relevant portfolio. Finance's role would have been the same as it always is, which is, as part of the costings process, to verify the assumptions that underpin the costing that was put forward. Mr Yannopoulos might be able to add to that.

Mr Yannopoulos: No. As the minister said, agencies came forward in recognition of the pandemic and the impact it was having on external revenue. We asked agencies who were particularly reliant on external revenue to make the case. What you're seeing in that measure is the government's agreement to supplement some of that external revenue. There's still some available. It's not zero in all cases. There are still assumptions and there's another economic update this financial year.

Senator GALLAGHER: Is it to supplement to keep them at the level they were expecting, acknowledging that they have some capacity to generate? It's not clear from the description.

Senator Cormann: You're putting us at a disadvantage here because Finance and the costings process verifies the costings put forward by relevant agencies, but that sort of detail is really with the portfolio concerned.

Senator GALLAGHER: But Finance would know it? They would.

Senator Cormann: No. Finance doesn't double up on the work of every single agency. Finance goes through, obviously, all of the measures that come forward to ERC as part of the costings process. Ultimately, responsibility for the individual measures rests with the individual portfolios concerned.

Senator GALLAGHER: I'm trying to understand in a general sense. It doesn't say in the description 'to supplement or to offset some of the loss in revenue'. It just says so that these agencies 'continue to provide services to the public while experiencing a decline in revenue'. I'm trying to understand—

Senator Cormann: The important point here is on what the position is in relation to those specific agencies in this context. These questions are best directed to those agencies.

Senator GALLAGHER: Mr Yannopoulos said that it was to provide some supplementation, so you must have known. What level is it? Twenty per cent of it?

Mr Yannopoulos: I'm happy to take it on notice. It will depend on each institution, where they are located and what the impacts of COVID related restrictions are.

Senator Cormann: It's not a uniform impact across the board. The same is in the way the economy—different outlets or different institutions are impacted in different ways in the same way as different individual businesses are impacted in different ways.

Senator GALLAGHER: Okay. There are five or six that are just the national institutions here, the collecting institutions. They would have all been reasonably affected the same way, I would imagine.

Mr Yannopoulos: Yes, but you would say also that here in Canberra most things are now open, so the capacity to continue to derive external revenue is there.

Senator GALLAGHER: So at the end of the day it's not to offset their revenue decline but to provide some support to them in a year where they were experiencing a revenue decline?

Mr Yannopoulos: Yes.

Senator GALLAGHER: Consultants, AusTender and things like that are No. 2?

CHAIR: Yes.

Senator GALLAGHER: In Budget Paper No. 4, when you're doing the ASL numbers, I think in previous years you've had the year before?

Ms Huxtable: We've had the estimate.

Senator Cormann: The budget time this year is October rather than May.

Senator GALLAGHER: That's why, is it?

Senator Cormann: Yes.

Senator GALLAGHER: That's why you've taken that column out?

Senator Cormann: Yes.

Senator GALLAGHER: Can you explain why it's not usual?

Senator Cormann: Normally the financial year hasn't finished yet. When you have a budget in May, you're still part-way through the financial year you're in, whereas now we are already in the budget year, essentially. If we had delivered the budget in the normal timetable, we would have delivered the 2020-21 budget in 2019-20, whereas we're now delivering the 2020-21 budget while we're already in 2020-21.

Senator GALLAGHER: Normally an estimate—couldn't you have put the actual in there, then? Wouldn't it have been better? It would have been able to be known.

Mr Yannopoulos: The actual reporting was happening right at the completion. It's only due at the end of September. We're preparing the papers to be published on 6 October.

Senator Cormann: Essentially, it was a timing issue. By the time the budget books had to be closed off, the verified data wasn't yet available.

Senator GALLAGHER: But the estimates would have been—

Ms Huxtable: Yes, but then we would have been including an estimate, which we would have known was no longer accurate, because we've gone past the end of that financial year.

Senator GALLAGHER: Okay.

Mr Yannopoulos: If I may, it's why we tried to clarify on page 161 of Budget Paper No. 4 that agencies will be publishing through their annual reports, which are also due at this time. That enables them to put commentary about their own situation and the impacts of COVID on their organisations.

Senator Cormann: It's entirely driven by a timing issue around the budget.

Senator GALLAGHER: Fair enough. I'll decide it's not a conspiracy theory to reduce transparency. It is actually useful, though because the point—

Senator Cormann: And it'll be back!

Senator GALLAGHER: Well, you can promise that! We'll have to make sure we hold the minister to account.

Ms Huxtable: Also, on the transparency issue, the annual reports are loaded up into transparency.gov.au.

Senator GALLAGHER: I know, so you can do a search.

Ms Huxtable: Obviously, not all the annual reports have been tabled as yet, but they are being loaded up as that occurs.

Senator GALLAGHER: I just have a few questions on that—I might just have to go back to that and have a look at how it lines up with annual reports, I think. Can you tell me whether Finance has worked on costings in relation to an extension of JobKeeper or the coronavirus supplement beyond their current expiry dates?

Senator Cormann: You are going into the deliberative processes of cabinet now.

Senator GALLAGHER: No, I'm just asking if there's been a costing done. I'm not asking what the costing is or what you've considered; I'm just asking if it's been done.

Senator Cormann: You are going to matters that are subject to cabinet deliberations and, self-evidently—and I'm happy to put on record—the government considered options around the extension of JobKeeper beyond the end of September and the extension and arrangements moving forward from the end of September for JobSeeker. The decisions that we've made were reflected in the July Economic and Fiscal Update and also, I think, reproduced in Budget Paper No. 2. In terms of what the options are that we may or may not have considered, that is clearly a matter that goes to the deliberative processes of cabinet.

Senator GALLAGHER: Whether a costing exists? Whether a costing was done?

Senator Cormann: I've been unbelievably helpful in the way I've just explained to you what we did.

Senator GALLAGHER: No, you haven't. You've just told me what's in the budget papers. I'm asking whether a costing's been done.

Senator Cormann: No, what I've told you told you is we have considered options. In the context of considering options, of course, Finance does what Finance always does—that is, to provide costings and advice—and that has informed the deliberations of the cabinet. I can confirm that we considered options when it comes to the arrangements for JobKeeper beyond the end of September and options when it comes to the arrangements for JobSeeker beyond the end of September. The outcomes of those considerations are reflected in the July Economic and Fiscal Update and the budget.

Senator GALLAGHER: So the budget doesn't include an extension of the coronavirus supplement beyond the end of December. Why wasn't it included in an October budget?

Senator Cormann: Because the judgement that we formed—bearing in mind that we've got a half-yearly budget update in seven or eight weeks from now—and the decision that we made was that we wanted to assess and consider more data about the strength of the economic recovery and the developments in the employment market and also the impact that the enhanced JobSeeker arrangements were having on the strength of the recovery and developments in the employment market. There's been some evidence that the effective doubling of the JobSeeker payments created a level of undesirable distortions in the labour market where reports were coming in from quite a number of businesses that they were finding it difficult to attract people into work, work that was available, while being on the JobSeeker payment, as it was in place between early April and the end of September. We of course made a decision to phase down the level of the supplement for the period from the end of September to the end of December. Our judgement, in terms of the determination of what the appropriate level of ongoing payment should be, was that we wanted to review more data and more information about the level of recovery in the economy and the jobs market before making that final decision. Clearly, the intention is to ensure that income support payments for jobseekers provide an appropriate safety net without providing a disincentive to take up work that is available. We believe that we will be in a better position to make a judgement in the context of that in the half-yearly budget update later this year.

Senator GALLAGHER: Just unpacking that quite lengthy answer, which I appreciate: when you said you had evidence coming in from business—I presume it was at that point

when it was the full doubling of the Newstart payment, so the JobSeeker payment with the full corona supplement—how was that information collated, and what was the extent of it? I think I have heard a few ministers say you were getting this information. What was it? Who was it through?

Senator Cormann: Let me unpack that for you, too. When we made the decision towards the end of March both on the way that JobKeeper was structured and the doubling of the JobSeeker payment, we were very conscious of the fact that, given the speed and the size of the payment, it would create distortions. But we accepted that we had to make the judgements that we did, despite those distortions, given the need for that sort of support in the wake of this unexpected crisis that was hitting Australians. So it was something that we were mindful of as a likely impact from the outset. As we went on and engaged, as with all do, with businesses and business organisations around Australia, as jobs were being restored, as business activity was resuming and as restrictions were being eased across a range of sectors, the quite consistent feedback—and I would be surprised if you didn't get the same feedback—was that it was quite difficult to attract people who were on the double JobSeeker payment back into jobs.

In the context of these sorts of impacts, we ultimately rely on the advice from Treasury and relevant departments like Social Services when it comes to JobSeeker. Clearly, we didn't think that we had sufficiently reliable data in the lead-up to the budget to make a final judgement about ongoing arrangements, which is why we decided to wait until later in the year, when we hope to have more conclusive data on some of these developments. We will have some more conclusive data about the strength of the recovery in the economy and in the jobs market, and we will make some appropriate judgements at that point in time.

Senator GALLAGHER: Why did the government treat people on JobKeeper differently, though, to people on the corona supplement? There are over two million people receiving that payment who you are going to keep hanging until a couple of weeks out, it appears. It seems to me you're saying that there'll be a fix of some sort in the MYEFO, but why are they being left wondering? It seems to me that, if you have acknowledged that JobKeeper has to be extended and is going to be a requirement for that payment to continue in some form until at least March, that would be based on the economic conditions that you believe will be present in the economy from now until March. Why wouldn't those same economic conditions apply to the people who are the poorest people in this country, millions of whom are relying on that payment?

Senator Cormann: To unpack that a bit: firstly, JobKeeper has finished for many businesses already. JobKeeper is not a payment that goes to individuals; it's a payment that goes to businesses.

Senator GALLAGHER: I understand.

Senator Cormann: Well, it's an important distinction. And it's only available to businesses who can demonstrate a relevant drop in turnover. For the first six months, you had to be able to demonstrate that drop in turnover at the beginning, and once you were in you were in for the entire six-month period. But, of course, from the end of September onward that test is applied and reapplied, and for a lot of businesses, depending on their individual conditions, the JobKeeper support has stopped. It continues to be available in a phased-down approach, depending on their specific circumstances, to keep people in work.

In relation to JobSeeker, the JobSeeker payment is still substantially higher than what it was before the crisis. It's still \$250 a fortnight higher than what it was before the crisis, which is, incidentally, higher than what the welfare organisations asked us to increase it by at the time, at the beginning of the crisis. On top of that—the other thing that we have done which is very important—we've increased the so-called income-free area from \$105 a fortnight to \$300 a fortnight, which means that those Australians on income support are able to earn more through their own effort before losing any of their income support. The focus and the objective are to encourage as many of them back into work as soon as possible. We were concerned that it appeared that the level of JobSeeker payment with the COVID supplement as it was initially in place was too much of a disincentive for people to take on a job that was available and that they would have taken were it not for the level of JobSeeker payments. So we made a decision that in the circumstances it was appropriate for us to extend the JobSeeker payment with the coronavirus supplement to the end of December at \$250 as well as to increase the income-free area from \$105 to \$300. We'll make the judgement about the ongoing arrangements, based on the data, information and advice over the coming weeks, in the context of the half-yearly budget update at the end of the year.

Senator GALLAGHER: Minister, your budget papers expect more people to join the unemployment queues by Christmas. The figures of people on JobSeeker and youth allowance and those receiving the coronavirus supplement have remained pretty constant for the past 18 weeks. We've been getting that data through DSS. There hasn't been much of a move. It's 1.6 million on JobSeeker, 400,000 or 500,000 on youth allowance, and then there are the other payments, which top the coronavirus supplement up to over two million. The message that they get out of the budget paper is that they are snapping back to \$40 a day.

Senator Cormann: That is actually not right.

Senator GALLAGHER: It is, because the coronavirus supplement expires at the end of December.

Senator Cormann: And I've already indicated to you that we'll make a judgement by the end of December about what the ongoing arrangements will be—

Senator GALLAGHER: Well, frankly, you won't be here.

Senator Cormann: and they will be set at the appropriate level, based on the assessments, information and advice that we receive between now and then.

Senator GALLAGHER: Don't those two million Australians deserve some certainty about the income support they'll be receiving from the government?

Senator Cormann: We are doing everything possible to get as many of them back into work as soon as possible.

Senator GALLAGHER: But your own—

Senator Cormann: If I may, 60 per cent of the jobs that were lost at the height of the crisis have been restored already. We're working, obviously, very hard to get as many jobs as possible restored and get as many new jobs created as possible. We want to ensure that the policy settings, including in the context of our social safety net, provide the appropriate level of social safety net support but also don't present a disincentive for people to get back into work. In the end, the strength of the economic recovery that we want to achieve requires everyone who is able to work to get back into work, where those jobs are available.

Senator GALLAGHER: But your own figures, and data from DSS, expect around two million people to be receiving that payment and relying on that payment in December. There's not going to be some miraculous recovery where everybody gets a job and nobody relies on the coronavirus supplement on top of the JobSeeker or other payment that they're receiving. It's just a mystery to me. I don't think there is a logical explanation about some amazing inflow of data in the next six weeks that's going to give you the right recipe to fix that payment. It just seems to me that you've made a decision that there's one group of people that deserves certainty and those who are surviving on the lower incomes can wait. That's the message.

Senator Cormann: That's just not true. We have been dealing, on the way down and on the way up, with a rapidly evolving situation, with a situation that is constantly changing. Treasury, in March, was telling us to expect an official unemployment rate by the end of June of 10 per cent. It was 7.4 per cent. Then they advised us that we should expect that the unemployment rate would increase to 10 per cent in the second half of the year. We are at 6.9 per cent. That is 3.1 per cent less than what the Treasury expected at the time. I am not criticising Treasury here. We're dealing with a rapidly changing, uncertain environment where it is very difficult to make precise predictions, and in that context we think it is entirely appropriate. Given the feedback we've been getting about the apparent distortions—which we expected to a degree—that are playing out in the labour market as a result of the level of the JobSeeker payment, it's sensible for us to make the decision closer to the time when the decision needs to be made, and it will be made.

Senator GALLAGHER: Two weeks out.

Senator Cormann: We are seven or eight weeks away from the next budget update. I think it's entirely appropriate. You can disagree with that.

Senator GALLAGHER: I do. I completely disagree with it. The budget papers talk about confidence and certainty being important for the economic recovery. I personally don't think that stacks up. I think it's just showing an ideological view about people on unemployment benefits, really.

Senator Cormann: I don't think that is right. We have demonstrated—

Senator GALLAGHER: There is no other example in this budget where you have said to a group, 'You can wait two weeks from when this snaps back'—to a payment that people can't live on. There is no other example where you are giving people two weeks notice about what the government is going to do.

CHAIR: We are approaching the time for the break.

Senator GALLAGHER: Let me check. If I have some questions about the annual report, could they go under outcome 2 or are they for outcome 1?

CHAIR: I will wait for the advice from the secretary on that one.

Ms Huxtable: It depends on what the question is, obviously.

Senator GALLAGHER: It's not a budget question.

Ms Huxtable: If it's not a budget question, it's probably—

Senator GALLAGHER: I think it's under outcome 1, but I am not sure how it fits in. Maybe risk management, 2.4.

Ms Huxtable: That would be outcome 2.

Senator GALLAGHER: The next time we do this, we will organise it so it doesn't move.

Senator Cormann: You can always send us your questions beforehand.

Senator GALLAGHER: I might get some better answers!

Senator Cormann: We should try it. Maybe we can try that next week.

Senator GALLAGHER: Maybe you could just give me all of your briefs and then we wouldn't have to sit here.

Senator Cormann: We could swap.

Senator GALLAGHER: That would be good, actually. I think I would get more out of yours than you'd get out of ours.

CHAIR: More seriously, how are we going? Are we done with outcome 1?

Senator GALLAGHER: Yes. Do you want to do that?

Senator AYRES: I can't promise two minutes, but—

CHAIR: For the sake of finishing outcome 1, I'm happy to delay going to the break.

Senator AYRES: There's an increase in the JobSeeker payment of \$19.7 billion in the budget, which the paper says reflects an increase in the forecast recipient numbers. We know what the forecast unemployment rates are. Are you able to provide the numbers of JobSeeker recipients that sit behind the \$19.7 billion figure?

Senator Cormann: We may need to take that on notice. We can provide that, but it would be best to take that on notice.

Senator AYRES: Economic response to the coronavirus payments—expected to increase by \$4.1 billion because of the increase in businesses receiving the cash flow boost for employers. It will be a similar answer, won't it?

Senator Cormann: I will tell you why they are measures in different portfolios. We are happy to be helpful, but, if you want to ask those questions here, we will take them on notice and provide you the answers on notice.

Senator AYRES: Provide the number of businesses that sit behind the \$4.1 billion figure on notice?

Senator Cormann: Yes.

Senator AYRES: NDIS payments are expected to increase by \$3.9 billion. Describe what's driving those higher costs. Similarly, employment service payments are meant to increase by \$2.6 billion due to an increase in Jobactive expenditure. How much of the \$2.66 billion is going to the job agencies?

Senator Cormann: These are questions for a different portfolio, but I'm happy to take them on notice and provide the answers.

Senator AYRES: Services Australia departmental funding is expected to increase by \$1.1 billion. How much of that is for extra staff and how much is for labour hire and contractors?

Senator Cormann: We'll take that on notice.

Senator AYRES: Thank you. The childcare subsidy payments are expected to increase by \$860.1 million. Does increased support for families mean more families accessing the childcare subsidy?

Senator Cormann: Child care is a demand-driven program, so the level of demand does drive the level of expenditure. In this financial year, we are expecting to spend about \$9 billion on providing childcare subsidy support, which is a record, but, in terms of the specific numbers on the line, it's either for Education or I can take it on notice for you.

Senator AYRES: Can you take it on notice for me and explain what the numbers are behind that and the demographic changes that are anticipated? There is also a \$777.5 million increase in workforce support payments, which reflects an increase in entitlements anticipated under the Fair Entitlements Guarantee program. How many employees are expected to receive their entitlements through this program? Presumably, it means that there are anticipated liquidations or bankruptcies of employers?

Senator Cormann: There are assumptions underpinning this which belong to a different portfolio, but, in an abundance of helpfulness, if you want me to take it on notice, I'm happy to do so.

Senator AYRES: That would be helpful. Similarly, payments related to military rehabilitation compensation are expected to increase by \$640 million. What's driving that? Is that a policy change or an expected—

Senator Cormann: It says there: 'largely reflecting the increase in the number of claims being processed from members of the Australian Defence Force and veterans'. If you want me to take on notice specific assumptions, I can do that.

Senator AYRES: Thank you. I'll have an opportunity to talk to them next week, but thank you. Finally, does the description of income support for seniors payments, where indexation is largely causing a decrease in payments of \$4.8 billion, but \$5 billion is provided through the various one-off payments. Does that mean that, in net terms, income support for seniors is decreasing by \$200 million over the forward estimates?

Senator Cormann: There has obviously been a spike in terms of the temporary support, which is not ongoing. It says:

... largely reflecting a lower than projected rate of indexation due to the impacts of the COVID-19 pandemic on the economy. As part of the COVID-19 Response Package, the Government has provided \$5.0 billion in additional support to senior Australians through the provision of two separate \$250 economic support payments to eligible pensioners as part of the Budget measure COVID-19 Response—

Of course, we also provided previously two \$750 economic support payments, which were outlined in the July update. But these are specific one-off payments; they're not ongoing; they're not increasing the spending trajectory moving forward.

Senator AYRES: But the net effect of that over the forwards is a \$200 million gap?

Senator CORMANN: I'm going to have to give—

Mr Yannopoulos: I think it's the other way; I think it's \$200 million up.

Senator Cormann: We can unpack that for you on notice.

Senator AYRES: Can you?

Senator Cormann: Yes.

Senator AYRES: Okay, Chair.

CHAIR: Thank you very much, Senator Ayres. As there are no further questions for outcome 1, I thank the officials involved in outcome 1 very much for their attendance and their evidence yesterday and this morning. The committee will now break.

Proceedings suspended from 10:34 to 10:54

CHAIR: The committee will resume. We are examining outcome 2 and, at the conclusion of that, we will move onto outcome 3. Senator Gallagher.

Senator GALLAGHER: In the annual report, you identified that you reported, to the Minister for Finance, one instance of significant non compliance with finance law. I presume this is the matter that has been publicly raised in the media about some Finance officials. I'm genuinely asking you to provide me with information about how you became aware of it, and what actions you've put in place since identifying it. I understand there may be some limitations, but I believe there are probably some things that you can share with us today.

Mr Scott: Yes, I can confirm that one instance of significant non compliance does relate to the case of the AFP charging one staff member and two contractors with counts of intent to defraud the Commonwealth and abuse of public office. Because it's an ongoing investigation by the Australian Federal Police and is currently before the courts, yes, we are quite limited in what we can talk about, at least in terms of the substance of the case. In terms of your question about how we became aware of it, there were a couple of sources. The primary one was through some public interest disclosures from staff. They were subsequently investigated, and then, in July 2019, a referral was made to the Australian Federal Police.

Senator GALLAGHER: So, the public interest disclosure—do you have to report PIDs anywhere?

Ms Huxtable: Yes, we do report PIDs.

Senator GALLAGHER: Through your annual reports?

Ms Huxtable: Yes, I believe so. Iain, is that right?

Senator GALLAGHER: I think we did in the ACT, but I couldn't find it anywhere to link it back to. When you say there was a public interest disclosure, was that made internally?

Mr Scott: Yes, Senator. Sorry, there are also limitations on what we can talk about on that because of the significant safeguards in place for—

Senator GALLAGHER: Sure; I understand that completely. Was that made to you, Ms Huxtable?

Ms Huxtable: I think in the process, as it is set out, I, at a point in time, confirmed that this should be dealt with as a PID, so I did that. I then put in place the processes to investigate it.

Senator GALLAGHER: Okay, but did it come to you?

Ms Huxtable: Yes.

Senator GALLAGHER: So someone has reported some concerns to you. You've decided that it should be treated as a public interest disclosure, affording appropriate protections.

Ms Huxtable: That's right.

Senator GALLAGHER: Can you tell me when that was?

Ms Huxtable: We might have to take on notice the exact dates. It took a period of time for us to undertake the investigations related to that, and that culminated in the July 2019 referral to the AFP. But we can take the exact dates on notice.

Senator GALLAGHER: You've got the date? I don't actually need the exact date, just a ballpark date.

Mr Scott: Senator, there was—

Ms Huxtable: To be honest, I'm a little bit concerned about how much information we can provide about PIDs. In part, that's why I want to take it on notice, because there have to be safeguards in respect of persons who have put forward the PIDs. Can we just consider what we can provide? I just don't want to go off-the-cuff on that without having properly thought it through, but I can certainly tell you it was in advance of—

Senator GALLAGHER: July.

Ms Huxtable: that period, and it takes time to do the investigation following a PID.

Senator GALLAGHER: Alright. I think probably there are a lot of questions which we'll have to deal with at other hearings once this has been dealt with, but have there been any changes put in place as a result of what you learned?

Ms Huxtable: I instigated two pieces of work following the AFP advice that they would be charging three men with conspiracy charges, as Mr Scott identified. We obviously need to leave that investigation to the AFP, and it is now going through the process. But immediately after those charges were laid on 10 June, I think it was, of this year, I put in place two pieces of work. One focused on procurement assurance, so looking at all our procurement practices across the department. We've had external support on both these pieces of work. That work was undertaken by PwC. Then a separate piece of work was looking at organisational processes and behaviours. The type of thing we're looking for there is whether it's clear to staff what processes they can go through if they identify anything that's unusual in their view. Both those pieces of work have been done in very close consultation with staff across the department. So they've been underpinned with an analysis of all our processes and procedures, engaging with staff, having workshops and the like, really with a view to us building on the things that we do well—and they have identified a whole range of things where we do very well—and then identifying things where there are opportunities to improve. So we are in the process now of finalising those two pieces of work, and we'll have an implementation roadmap, an implementation plan, to progress that. I set up, as part of that, a small assurance task force that has led that work, led by a band 2 in the department. And the decision of the executive is that we will continue that assurance task force for the next six months, basically to have a coordinated implementation approach, probably quite intensively in the first few months but then transitioning to normal business in the last three months.

Senator GALLAGHER: So you referred it to the police in July 2019.

Ms Huxtable: Yes, that's right, but—

Senator GALLAGHER: So that's 15 or 16 months ago.

Ms Huxtable: remembering that, at the point where we referred it to the police, the police needed to come to a view about whether or not there was any case to put, so there was a

period of time where the police were considering the information that we'd put in front of them and undertaking their own investigations. So we were not aware that charges would be laid until quite soon before that occurred.

Senator GALLAGHER: But you must have been concerned in order to refer it to the police in the first place? I accept you've had to do some work, but what—

Ms Huxtable: What I'm saying is that my capacity to do the type of actions that we've done post 10 June—I can certainly do that once charges have been laid, but leading up to that point we were quite constrained because we couldn't do anything that could in any way hinder the AFP investigation. And I can assure you we have worked very closely with the AFP through the whole period, so we have taken their advice and counsel. But, in that intervening period—that intervening almost-a-year—we did do a range of things. To be honest, to get into the detail I think would not be something I could do here because I think it could potentially hinder the AFP investigation.

Senator GALLAGHER: When did the three individuals finish with the department?

Ms Huxtable: They were charged on 10 June. Two of them were contractors. Mr Scott can go through the actions that were taken at that point.

Mr Scott: The search warrants were served and charges laid on 10 June. We stood down the APS staff member immediately and terminated the two contractors.

Senator GALLAGHER: They all remained with Finance for 11 months after you referred it to the police?

Mr Scott: I'll talk to you about the various stages in general terms. Following the initial assessment of the PID, an investigation was undertaken by an external party. Once it was confirmed that there was potentially some substance and that it warranted further investigation, that was the point that it was referred to the AFP. It is an incredibly complex case, as a white-collar crime.

Senator GALLAGHER: Yes.

Mr Scott: The AFP undertook quite considerable investigations. During that period—and this is where I'll also be annoyingly vague—once we became aware that there was potential substance to the allegations, the department took some actions to manage potential risks. Once we became aware—and this was in 2020, so it gives you an idea about the length of the investigations—that search warrants would be issued and, potentially, charges laid, we took further steps. On the day that the search warrants were issued and charges laid we were prepared to act once there was sufficient evidence that action was necessary and appropriate.

Senator GALLAGHER: Okay. So there wasn't anything you could do in the 11 months prior to that?

Ms Huxtable: I think that Mr Scott has already said that we took certain actions in that period. I just don't want to go into—

Mr Scott: And of course we were—

Senator GALLAGHER: It was unbeknownst to them? You were able to make some changes, but unbeknownst to the people—

Mr Scott: Yes. And the important thing here for us as well—and it is really important to be clear about this—is that at the moment we have allegations and charges before the courts

and, obviously, they're entitled to the presumption of innocence. We took steps to manage the potential risks, but the legal case has to run its course.

Senator GALLAGHER: Yes. Is there anything else you can tell me about it, or do I have everything that you're able to share?

Mr Scott: In terms of the case itself, I don't think there's anything else we can say. As the secretary said, we've been working closely with the AFP. The feedback about the arrangements we have in place to detect this behaviour and act on it has been positive, and very much the Assurance Taskforce—

Senator GALLAGHER: Prospectively, or—

Mr Scott: Yes.

Senator GALLAGHER: Okay, because it wasn't systems, was it; it was people?

Ms Huxtable: I would prefer—

Senator GALLAGHER: Well, you told me it was an issue raised with you—

Ms Huxtable: That's how it was brought to our attention—correct.

Senator GALLAGHER: Yes.

Ms Huxtable: But there is always an opportunity to improve systems and processes, and the work of the Assurance Taskforce has been focused on that.

Senator GALLAGHER: Okay. Ms Huxtable, you said that there are two pieces of work: procurement assurance, which was led by PwC—is that right?

Ms Huxtable: Yes, that's right.

Senator GALLAGHER: Was there a value for that contract, or a contract number?

Ms Huxtable: I don't think that I have that on me. We could take it on notice, unless one of the officers could help.

Senator GALLAGHER: I presume it's on AusTender.

Ms Huxtable: I'm just not sure if we've quite finalised that now. I know we're very close to finalising those reports, but whether we've actually signed off and acquitted the final amounts I'm not sure.

Ms Walsh: We'd be happy to take that on notice and provide you with that.

Senator GALLAGHER: Okay. And the second piece I think had more a bit of a culture-and-people kind of focus. But that was external too, was it?

Ms Huxtable: Yes. That was done by EY.

Senator GALLAGHER: EY. Could you give me whatever that—

Ms Huxtable: We'll take that on notice as well.

Senator GALLAGHER: And those pieces didn't really kick in until you were in a position to be more up-front—

Ms Huxtable: That's right. As soon as charges were laid on 10 June, obviously, we communicated with staff at that point. And at that point I kicked off both the Assurance Taskforce and those pieces of work.

Senator GALLAGHER: Okay. Thank you. More to run on that one, I imagine. I've got some questions which I have raised here before in this committee around the use of contractors and consultants across the APS. Are you happy to answer these in this part? It's outcome 2, is it? Or are people going to say it is outcome 1? Okay. So this is something I've raised before when I've tried to get a picture of the use of consultants and contractors across the APS, and I've been told I can go to AusTender. Then, when you go to AusTender—and I think this is evidence people have given—they are not really designed to give you snapshots in any particular year, because of the nature of how contracts are let over periods of time and for different things and all the rest of it. I acknowledge that. However, I did put on notice a number of questions—in fact I put them on notice to all agencies—around the spending on consultants and contractors. Compiling the answers that we got back from 60 agencies demonstrated—if those answers on notice are correct, which I presume they are—that spending on contractors and consultants has doubled from \$1.6 billion in 2013-14 to \$3.7 billion in 2018-19. Is this something that you are monitoring and have some view on across the Public Service?

Mr Jagers: In relation to the data that we are able to look at from AusTender, as you indicated in your opening, the AusTender system is designed to report on contracts that have been awarded, rather than expenditure within any particular year.

Senator GALLAGHER: So it is hard, which is why I had to go to the question on notice procedure that I just mentioned.

Mr Jagers: Yes, that's right. So we have data that records the consultancies that have been let in each year, but we don't have expenditure data for consultancies.

Senator GALLAGHER: Sorry, take me back there, Mr Jagers. You have data on—

Ms Huxtable: But that is AusTender data.

Mr Jagers: That is AusTender data.

Senator GALLAGHER: I think you said 'in a year'?

Ms Huxtable: Yes, but—

Senator GALLAGHER: It might spread over a number of years? This is the problem.

Mr Jagers: So consultancy might be for—or any AusTender contract might be over three or four years.

Senator Cormann: Or sometimes over 10 years. At some point—

Senator GALLAGHER: Yes. I understand that—

Senator Cormann: *The Australian* reported a story a few years ago, where they were making an assertion about how much our government was spending on consultants—

Senator GALLAGHER: *The Australian*, you say!

Senator Cormann: Yes, *The Australian*.

Senator GALLAGHER: Gee. I bet they got a talking to.

Senator Cormann: And \$1.8 billion was in fact a 10-year contract that was initiated under the Gillard government, which was an entirely appropriate contract in the Defence space, so there is no quibble there. But the \$1.8 billion was reported on AusTender in every single year that the contract was live and for some reason that was then sort of said to be—

Senator GALLAGHER: Gee, I bet that person got the sack.

Senator Cormann: somehow meant to be our item of consultant expenditure, which, of course, it wasn't.

Mr Jagers: So the information we have is about the consultancy contracts let in any particular year and it doesn't relate to expenditure. But consultancy contracts are about one per cent of total contract notices on AusTender each year. That percentage has been about one per cent for some time.

Senator GALLAGHER: What is that in a dollar figure?

Mr Jagers: In 2018-19 I think we reported that \$647 million of consultancy contracts were entered into in that year, but not necessarily for expenditure in that year.

Senator GALLAGHER: Yes, I understand. I presume you don't look at all of the questions on notice that come in from every agency. With the 60 that I got back and added up, that does show a significant growth in the annual spend on contractors and consultants. It had more than doubled over five years. Is this a worry to Finance from the perspective of efficiency and effectiveness of government spending, from prudent budget management?

Mr Jagers: I haven't got the data that you are referring to, so we haven't looked at it. Maybe one of my colleagues can talk a little bit about what the Department of Finance is doing in this space about consultancy expenditure and reporting.

Dr Helgeby: I would like to perhaps talk a bit about, if I could, the review which was completed about two years ago—or a year or so ago—into the operations of the PGPA. It was an independent review. David Thodey and Elizabeth Alexander undertook that. There were 52 recommendations and they have all been discussed with all of the relevant people, including being considered by the JCPAA, where this issue specifically came up. On the back of those discussions and that consideration, the government choose to—I will call it—'early adopt' recommendation 38 of that review, which is a recommendation about increased disclosure of contracts in this area.

Senator GALLAGHER: Yes, which is in your annual report, I think.

Dr Helgeby: Yes. That's right. So we are one of the early adopters. It will be mandatory from next reporting season. It is a requirement to disclose both non-consultancy and consultancy contracts—'contracts' is the operative word here—and to disclose a number of new and ongoing contracts, total expenditure on new and ongoing contracts and then some additional information.

Senator GALLAGHER: Yes. Top five.

Dr Helgeby: Yes, top five names, in particular. As annual reports are being tabled at the minute, we will go through and will see what the level of early adoption has been, but it will be non-discretionary for subsequent reporting periods.

Ms Huxtable: Again, that will go on transparency.gov.au and the analysis work—anyone can look across those annual reports and develop tables and charts coming out of that.

Senator GALLAGHER: I think it is good and it is an improvement and I appreciate it. It still doesn't give you necessarily an annual snapshot of what the actual spend in any given year is, does it? Because it still—where it says 'new contracts entered into during the period', that could be for contracts over a period of time—in your case it was 7.6?

Dr Helgeby: It is both new and ongoing.

Senator GALLAGHER: I know, but in both of those categories they could be multi-year contracts or in that state, consultancy contracts, couldn't they?

Dr Helgeby: I am on page 92.

Senator GALLAGHER: Yes. I am on 91.

Dr Helgeby: If I go to that section there, there is a disclosure around consultants and then there is non-consultancy contracts. There, the focus is on expenditure under those two subheadings, 'Expenditure on new contracts' and then 'Expenditure on ongoing contracts'. What I would say is that this is a level of disaggregation of data which otherwise exists at an aggregate level in financial statements. So, in the course of discussions of this issue by the independent review and subsequently through the JCPAA process, the debate has been really around where to strike the balance between, if you like, what is brought up to the aggregate level and brought up in financial statements and then this level of disclosure. This is the level at which the independent review thought it was most appropriate and this is the level which has been implemented through a rule which was registered at the start of June.

Senator GALLAGHER: As I said, I welcome it. Is there a way to measure value for money in the way contractors and consultants are being used across the Public Service? Is there a role for Finance there? Is there a way to measure it? And do you have any concerns that it's not being used appropriately?

Dr Helgeby: I'll make a general observation and then perhaps Mr Jagers might want to add to it.

Senator GALLAGHER: Sure. I thought he was gearing up for an answer there.

Dr Helgeby: The general observation I'd make is that we have a framework for performance reporting—for example, you'll see in the annual report a long section called the annual performance statements—so really the contribution that a consultant or a contractor makes to the mission of a particular organisation is captured through that mechanism. Again, that's an aggregated mechanism. I think, in terms of how an individual contract arrangement works, that's really a question that goes to how that contract is structured and set up. I might ask Mr Jagers to talk a bit about that.

Mr Jagers: Any consultancy contract entered into by Commonwealth agencies, Commonwealth departments, is subject to the Commonwealth Procurement Rules, division 1, section 4, 'Value for money', and what needs to be considered in achieving value for money and how to achieve value for money. We talked earlier about some of the guidance material that we have put out in terms of economic benefits to the Australian economy, which was part of that 'achieving value for money' framework. With all of these contracts, there is a requirement on each accountable authority to ensure that value for money is attained, and there's a reasonably comprehensive set-out of how to do that in the Commonwealth Procurement Rules and the further guidance material in the Commonwealth procurement framework.

Senator GALLAGHER: The question on notice figures that we've compiled point to a spend in 2018-19 for agencies declaring expenditure in that year, across 60 agencies, at \$4.8 billion. Do you think that figure is correct?

Ms Huxtable: Is this consultancies or contractors?

Senator GALLAGHER: It's both. We've asked them both. We got answers from 60 agencies. Obviously Defence are a big part of that. I don't think they can provide figures actually, before 2018-19, but in 2018-19 it was \$1.1 billion.

Ms Huxtable: I don't think we could comment on the accuracy. Presumably that's coming from—

Senator GALLAGHER: Do you think that's a problem—that I've had to go out and ask each agency and put it to you?

Ms Huxtable: As one of the officers said, these are decisions and matters for accountable authorities around the most appropriate mechanisms to achieve the outcomes for their portfolio. For example, if you look at Finance and if I go back over the time that I've been in Finance, our spending on consultancies will vary very widely from year to year, and that will relate to the nature of the work that's being undertaken at the time. Early on, when we were doing a number of scoping studies, we were using commercial advisers and legal advisers. As that work completes, then clearly we don't use those services so much. So it's going to be very dependent on individual entities and the work programs that they're managing. I firmly believe it is a matter for them, and they have to assure themselves in their responsibilities under the PGPA in regard to that and that they're getting value for money.

This reporting mechanism that we're now putting in place will enable greater capacity to do analysis around what's happening in this space. Data, as Dr Helgeby said, is now available but not as accessible as it will be in this form. I think that's a positive. You've recognised that. But I don't think that we can comment on the accuracy of the data that has been provided to you by entities. One assumes that they have provided accurate data to you. There's the second question about the appropriateness of that spending. I can take responsibility for what happens in the Finance portfolio, but not for what's happening in other portfolios.

Senator GALLAGHER: We established in evidence yesterday that Finance has a role in ensuring effectiveness, efficiency and value for money in public spending. I can't think of another area of government where if you had seen a doubling in expenditure over three or four financial years that Finance wouldn't be asking some questions about what's going on. Wouldn't you? If a \$1 billion program had grown to a \$4 billion program across the APS, surely you—

Senator Cormann: What you're ignoring—

Senator GALLAGHER: Can I just finish? I have really tried to stop interjecting on you. Wouldn't there be a question raised? Wouldn't you want to know what's going on? Particularly in a time when we're borrowing so much money and when we are seeing these big increases, wouldn't you want to know that how that money is being spent is actually delivering value for money for taxpayers?

Senator Cormann: What matters is what is happening to the cost of government administration overall as a proportion of overall government expenditure. Even at a time when our expenditure growth was very low and even now in the crisis context, as I indicated yesterday, real average growth in payments was 1.7 per cent per year over the forward estimates, but the proportion of the costs of government administration, which includes the cost of contractors and consultants as well as the costs of the Public Service, has continued to

trend down under our government. That means that we are achieving our objectives in a way that is demonstrably cost-effective and efficient. It would be concerning if the cost of government administration overall was increasing as a proportion of the cost of government expenditure, and that is not happening.

Senator GALLAGHER: So you don't care where the money is being spent—

Senator Cormann: It's not that we don't—

Senator GALLAGHER: You just care that it's either staying stable or going down. Other than that, it's a free-for-all.

Senator Cormann: No. It's not that we don't care. We're very focused on and care that the accountable officers in each department make judgements about the allocation of departmental resources with the objective of ensuring value for money, with the objective of getting the best possible bang for their departmental expenditure buck, given the priorities and responsibilities that they need to pursue. Page 19 of Budget Paper No. 4 shows you that departmental expenses as a percentage of total government expenses are continuing to go down. That includes the cost of consultants and contractors. As you know, in the end individual departments have to make judgements on what their specific requirements are. There are clearly circumstances where it's more appropriate to engage a contractor or a consultant, either where the need is temporary, where there's a spike in demand that is not ongoing, where it doesn't make sense to hire an additional person on a permanent basis or where there are very specialised skills that are better obtained and maintained at the appropriate level of expertise in a dedicated private sector business. There are a whole range of circumstances where the use of contractors and consultants can be a very effective way to keep the overall costs of government administration low.

The important point is the cost of consultants and contractors is accounted for in the overall departmental expenditure, so the overall departmental expenditure covers the cost of the Public Service, the cost of consultants and contractors as well as a series of other relevant costs. That cost as a proportion of overall government expenditure has consistently been trending down under our period in government.

Senator GALLAGHER: Again your view of the position I put, which is that there has been a significant increase in the annual spend on consultants and contractors, is all fine as long as graph 1 on page 19 of Budget Paper No. 4 trends downwards. You don't care.

Senator Cormann: I care about value for money. What I see in that graph is a spike in 2020-21 because of the impact of the coronavirus and a boost in ASL, for example—

Senator GALLAGHER: Yes, I get it.

Senator Cormann: for organisations like DHS, the tax office and so on. But, as long as the overall cost goes down, the problem you seem to be concerned about is clearly not there. If the problem existed that you're trying to suggest, that trajectory would be going up instead of going down.

Senator GALLAGHER: I am concerned that there has been a significant increase in the use of consultants and contractors and it's seemingly unexplainable and not of any apparent interest to you as the Minister for Finance. I think we have had some discussion in these hearings about the quality of the way public money is being spent. Considering that we are in deep deficits and borrowing lots of money, I do think that we need some scrutiny of how

money is being funnelled out the door of the Public Service. You may have a good defence for it—

Senator Cormann: But we're spending less money now.

Senator GALLAGHER: Not according to the answers I got. Sixty agencies have given me data over five years. Those answers show a consistent and persistent increase in the use of consultants and contractors. Unless they're not telling me the truth—and you don't have a figure, because you don't monitor it, and there is no oversight of this or apparent concern—

Senator Cormann: You're actually completely ignoring what I just said.

Senator GALLAGHER: I love how you tell me I'm wrong with every issue I raise—

Senator Cormann: No, but—

Senator GALLAGHER: and then you move to, 'It is Labor's fault.'

Senator Cormann: Let me unpack it carefully.

Senator GALLAGHER: This is so patronising.

Senator Cormann: Departmental expenses cover the expenditure on public servants, consultants and contractors—

Senator GALLAGHER: Yes.

Senator Cormann: and a range of other things, and that was at about eight per cent as a proportion of overall government expenditure in 2011-12. If we were still at that level, the money 'going out the door', as you say, right now would be substantially higher than it is. Even after the spike caused by this crisis we are at a lower percentage than the eight per cent. In fact, we are at 6½ per cent now.

Senator GALLAGHER: So are you saying that the answers I've got are wrong?

Senator Cormann: But expenditure on government administration as a proportion of overall government expenditure is lower after we account for the costs of consultants. If we had maintained it at your level, which was also Public Service, consultants and contractors, we would be spending substantially more right now on the cost of government administration. We're spending less because the percentage is less. One of the reasons we're able to reduce that cost is that we are improving the productivity of the Public Service as well as making use of, where it is sensible to do so, contractors and consultants to make the pursuit of government objectives more efficient. There are clearly circumstances—and I've said it before—where there is a temporary need for a spike in resources—

Senator GALLAGHER: It's not temporary.

Senator Cormann: where there is a specialised need or where there is a need for particularly specialised expertise that is not efficient to develop or maintain at the required level within a public sector agency—or a private sector agency, for that matter—which has not got that as its core business. Even in the private sector there are some services that are contracted out because it wouldn't be efficient for a private sector business to maintain the necessary level of expertise in relation to specific functions in house, so they contract certain services in. It's the same for the public sector. Certain functions are not efficiently maintained at the required level of expertise in-house. You would be spending more for a lesser quality service, and we don't think that that is advisable or desirable.

Senator GALLAGHER: That 'temporary and specialised services' you talk about seems to be growing and has doubled over the last four years.

Senator Cormann: And the cost of government administration is going down, as a proportion.

Senator GALLAGHER: Yes, because you've sacked a lot of public servants. I don't disagree with graph 1. We all know what you've been doing—driving small government—but the issue that's been raised by the questions on notice that I've put on is: while you've been sacking public servants, your consultants and contractors and the money you're spending for that and the cost of that, which tends to be higher than employing a public servant, has more than doubled.

Senator Cormann: Where your argument falls down is—

Senator GALLAGHER: I love getting this explained to me.

Senator Cormann: that the departmental expenditure covers both of those, the same as it did under you.

Senator GALLAGHER: I understand that. So you're spending less on public servants—

Senator Cormann: No, departmental expenditure doesn't only cover the cost of public servants. The departmental expenditure covers the cost of public servants and the cost of contractors and consultants, the same as it did under you. The combined cost of both, as a proportion of overall government expenditure, is lower now than what it was. So the net effect of the movements that you're criticising is a lower cost of government administration as a proportion of overall government. If we had maintained—

Senator GALLAGHER: And I'm questioning the quality of the spend.

Senator Cormann: I'm not finished. If we had maintained it at your level there would be much more money going out the door now, to pay for the cost of government administration, which we think would be very bad—it'd certainly be bad for the budget—at a time when we clearly have a whole series of other fiscal pressures. Having been able to drive down the cost of government administration, overall, has helped us prioritise resources back into the community, back into the economy, particularly at this time.

Senator GALLAGHER: I'm not talking—we've spent a lot of time in this estimates talking about the Labor Party in government seven years ago. I'm talking about right now and what's happening for your spending—right now—at a time when we are borrowing lots of money, and you are seemingly unconcerned about it. Is that fine?

Senator Cormann: I'm not unconcerned about it, but you can't ignore where you've come from. I'm not even partisan about it. I'm not criticising the fact that Labor used public servants as well as contractors.

Senator GALLAGHER: We're not talking about seven years ago.

Senator Cormann: No, but you've got to look at where you came from to make a judgement on where you are and where you're going to go. You can't completely ignore the situation as it was when you compare the performance of where you are right now. The situation, as it was, was that we spent more on the Public Service and consultants and contractors, combined as a proportion of overall government expenditure, than what we're

doing now. The overall cost of government administration as a proportion of overall government expenditure is lower now.

Senator GALLAGHER: And I'm asking—

Senator Cormann: If your argument was right, that somehow there's been this explosion in cost on consultants and contractors, if that was true, then the overall cost of government administration as a proportion of overall expenditure should be going up. But it is going down.

Senator GALLAGHER: It's not my argument. It's the information I've been provided by agencies that tell me that story. It's not an argument. I am focusing on a proportion of the spending in graph 1. I am not disputing the fact that you have been driving efficiencies across the Public Service. That is clear. I am asking about a subset of that expenditure that relates to consultants and contractors. I don't know why you're laughing here. It's not funny.

Senator Cormann: It's because you're trying to take it out of context.

Senator GALLAGHER: No. I'm not saying you should be spending more. I'm asking how you're spending and whether that's value for money.

Senator Cormann: I've answered that too.

Senator GALLAGHER: You've given me the same answer.

Senator Cormann: Every individual departmental head has a responsibility to ensure that their departmental expenditure is value for money, and they've got to make those judgements.

Senator GALLAGHER: So you don't care about it.

Senator Cormann: You can't take one particular item—

Senator GALLAGHER: Why?

Senator Cormann: of expenditure in isolation without looking at what all of the different moving parts are, because there are clearly interactions. If it is more cost effective and more efficient to use a contractor than to put another permanent public servant on, then that is what a particular department should do. Of course they should.

Senator GALLAGHER: You don't know if it is, because Finance doesn't have a look at it.

Senator Cormann: Yes. The numbers are showing it, like Budget Paper No. 4, page 19. You look at the graph.

Senator GALLAGHER: It shows that you've sacked a lot of public servants and you're still spending a lot of money.

Senator Cormann: No. What it shows is that the overall cost of government administration as a proportion of overall government expenditures is going down, which is precisely what we want to achieve. If, somehow, there was an undesirable blowout in the cost of consultants and contractors that was more than compensating for the reduction in costs elsewhere, then that proportion would be going up. You are trying to ignore the whole picture and you are trying to hone in on one element.

Senator GALLAGHER: No, I'm not. I'm asking about a subset of the spend.

Senator Cormann: But you can't consider that subset—

Senator GALLAGHER: Yes, I can.

Senator Cormann: You can't reasonably consider that subset out of the overall context of what is happening to the cost of government administration as a proportion of the overall costs of overall government expenditure. We will have to agree to disagree.

Senator GALLAGHER: We will!

Senator Cormann: That is very much our judgement. We have to make sure that the overall cost of government administration, as a proportion of government expenditure, is as low as it can be and that the Public Service is as productive and efficient and effective as it can be, but where it is appropriate that we use contractors and consultants as a way to keep the overall cost of government administration, as a proportion of overall government expenditure, as low as we can.

Senator GALLAGHER: Can you explain to me why spending on contractors and consultants has doubled from \$1.6 billion in 2013-14 to \$3.7 billion in 2018-19? That's excluding Defence.

Senator Cormann: I'm not sure which figures you are referring to.

Senator GALLAGHER: They are answers from agencies. Sixty agencies have given me that information.

Senator Cormann: Again, you are taking it out of context.

Senator GALLAGHER: No.

Senator Cormann: Yes. Because what is reported in the budget papers and what is relevant is what is happening to the overall cost of government administration—

Senator GALLAGHER: That is not my question.

Senator Cormann: which captures both the cost of the Public Service and the cost of consultants and contractors. The overall cost of government administration is going down as a proportion of overall government expenditure. That shows that there is no blowout as you are suggesting. It also shows that the departmental secretaries and heads of agencies around the Public Service are appropriately making decisions about the most efficient, effective and productive use of public resources and on how best to get value for money in the context of the policy and program priorities that they are pursuing.

Senator GALLAGHER: So you don't know. You don't know why those budgets have more than doubled?

Senator Cormann: I take the numbers you are stating at face value.

Senator GALLAGHER: They're correct.

Senator Cormann: It doesn't show anything.

Senator GALLAGHER: It shows that the spend has doubled.

Senator Cormann: But it doesn't show anything to the extent it actually—

Senator GALLAGHER: Is there double the work for consultants and contractors?

Senator Cormann: The cost of government administration—

Senator GALLAGHER: I'm not asking about that.

Senator Cormann: as a proportion of overall government expenditure is going down.

Senator GALLAGHER: I'm not asking about that.

Senator Cormann: That means that the individual departments are making sensible decisions to obtain value for money, and if that means engaging contractors or consultants instead of putting on more permanent public servants, then that is an appropriate judgement for them to make, and I will back them every single day in making those judgements.

Senator GALLAGHER: Do you think it has anything to do with your ASL cap?

Senator Cormann: No.

Senator GALLAGHER: Why?

Senator Cormann: Because in the end departmental sectors and heads of agencies have got to make judgements on how they can secure value for money. They are clearly doing it, because the cost of government—

Senator GALLAGHER: How do you know value for money—

Senator Cormann: as a proportion of overall expenditure is trending down. If they weren't obtaining value for money, then the cost of government administration would be trending up. So I am satisfied that the decisions that are being made across the public service, in aggregate, are clearly having the right effect, because we are spending less on government administration as a proportion of overall government expenditure, which means that we can spend more on getting actual services and actual benefit into the Australian community.

Senator GALLAGHER: So you have no problem with having a declining number of public servants employed and a doubling of the consultants and contractors spend? That's the way you want to run a public service—fewer public servants, more consultants and contractors, and that's fine? As long as you stay below a certain number, that doesn't bother you at all?

Senator Cormann: You are ignoring my answer completely. What I am interested in is making sure that we achieve the policy and program objectives and priorities of the Australian government in the most efficient, most effective, most productive way out of a combination of a world-class Public Service, which of course we did stabilise, as part of our budget repair effort, at about 166,000 ASL excluding military, for the first six years of our period in government. You can see that in 2020-21 it's actually going up by about 4,000 ASL, so I don't accept that side of it. But ultimately what is important to the Australian community is that they are getting the best possible services at the lowest possible cost.

Senator GALLAGHER: How can you answer that?

Senator Cormann: The reason they have confidence in that is graph 1, departmental expenses as a percentage of total government expenses is going down.

Senator GALLAGHER: That gives us cost; it doesn't give us effectiveness or value for money, does it? And you don't know.

Senator Cormann: You know what? The Australian people judge, at every election every three years, the comparative offerings and performances of the two major competing parties. If we are not seen to be delivering, clearly that would be reflected at the ballot box.

Senator GALLAGHER: As part of the COVID committee, we had the Aged Care Quality and Safety Commission appear. Twenty-seven per cent of their workforce is labour

hire or contractors. One of the reasons given, in direct answer to a question from me, was that the staffing cap is the reason why they have to hire in labour hire staff.

Senator Cormann: It's just not true.

Senator GALLAGHER: So the commissioner misled the committee, did she?

Senator Cormann: Every agency or every portfolio that has a need for additional ASL is able to ask for additional ASL. It always has been thus. But it's good housekeeping, good management and good financial control to ask agencies to be able to confirm, before asking for additional ASL, that they have made an effort to look at their existing resources to see whether all of the things that were done in the past are still priorities at present or whether there is a capacity to reprioritise within existing resources. That should always be first step. Before you ask for more resources, you have got to assess whether there is a capacity to meet your objectives or respond to your priorities in the context of the resources that you have. There has always been a process available to all portfolios to come forward with requests for additional ASL. Many have come forward with requests for additional ASL. There is a capacity to obtain exemptions from the offset rule, and there always has been. But as part of the budget repair, of course, in first six years of our period in government we did need to ensure that, among other things, we brought down the cost of government administration as a proportion of overall government expenditure, and we have done that.

Senator GALLAGHER: So are you suggesting that the evidence that we got around the inaction between the staffing cap and labour hire in the Aged Care Quality and Safety Commission, that evidence was incorrect?

Senator Cormann: I haven't seen the evidence and I'm not going to provide commentary on something that I haven't seen. I am not going to provide commentary on you relating something in your words of what was said. I am happy to review what was said and provide you my assessment of that on notice. But the truth is, in terms of the ASL offset rule and the so-called cap that was in place during our initial six-year period in government, there was always flexibility, all the way through, to deal with specific pressures in individual agencies. Indeed, the proof is in the pudding. We made decisions along the way to provide additional resources beyond any offsets on quite a number of occasions.

Senator GALLAGHER: These are the assessors that assess whether or not aged-care facilities meet the standards. That's the job of these people. It doesn't seem to me that it's really a temporary kind of employment arrangement. Yet 27 per cent of the workforce is employed on labour hire. Does that fit your understanding of specialised or temporary workforce? Surely you want those people—

Senator Cormann: I am happy to look at the evidence that was given in your COVID committee and see whether I can provide any additional information. What is very clear in aggregate across the government is that the cost of government administration as a proportion of overall government expenditure is lower now than what it was during the previous government, which means that the combined cost of the Public Service, contractors and consultants is lower now than the previous government.

Senator GALLAGHER: Again, to summarise that whole experience: as long as graph 1 keeps trending down, you're not too fussed about it?

Senator Cormann: As long as we are providing efficient, effective and productive government administration at a cost that is as high as necessary but as low as possible, then of course I'm satisfied. I think we need to look at the cost overall. I don't think that you can just look at specific subsets in the way you're seeking to do it. Your government, previous governments, have made use of contractors and consultants as appropriate—

Senator GALLAGHER: Of course. No-one's suggesting they wouldn't.

Senator Cormann: and we are doing the same. The overall cost under our government is less as a proportion of overall government expenditure.

Senator GALLAGHER: But the use of contractors and consultants has doubled.

Senator Cormann: The overall cost of government administration, which is a combined cost among other things of the Public Service, consultants and contractors, is less as a proportion of overall government expenditure, which shows that our approach is working.

Senator GALLAGHER: In terms of the interaction of the staffing cap, there's an extract from a job advertisement for a position in the Tertiary Education Quality and Safety Agency. The ad says:

TEQSA, like all Commonwealth Government Agencies, is required to stay within a staffing cap. This means there is a limit to the number of people we can employ as Australian Public Servants (APS). If our staffing cap does not allow us to employ people as APS employees, we utilise a third party labour hire company.

Senator Cormann: So what's the point? You're saying we should increase across the—

Senator GALLAGHER: The work is there. However, because there's an arbitrary staffing cap for public servants that is in place, in filling the work and doing the work that the government asks them to do they can't go over that so they will bring in labour hire to get around it essentially. They still have someone doing the job, but they're not public servants. Who knows what you have to pay? You pay a premium to go through a labour hire company.

Senator Cormann: You keep ignoring the inconvenient truth—that is, that in aggregate across the government the cost of government administration, which combines the cost of the Public Service and the cost of contractors and consultants as a proportion of overall government expenditure, continues to trend down and be lower than what it was under your government. So that means that the measures that we are putting in place are helping to deliver a more efficient, more effective and more productive government administration.

Senator GALLAGHER: But how do you know? You have no idea because you've got no line of sight of any of this. You're driving small government. We get that. This government's been quite open about it. Your policies are around delivering small government. But the inconvenient truth for you is the work still has to be done, and so, as you're reducing ASL and still demanding that the work gets done, agencies are having to use expensive labour hire agencies—

Senator Cormann: That's just not true.

Senator GALLAGHER: so there are fewer people overall doing more work. However, a component of that, and the cream on the top of it, is going to labour hire companies for temporary personnel services that are for permanent jobs in the Public Service.

Senator Cormann: It's just not true.

Senator GALLAGHER: It is true!

Senator Cormann: An agency head who made a decision along the lines that you describe to essentially procure services in a way that is not value for money would be breaching their obligations.

Senator GALLAGHER: But we've just had evidence all morning about how you have no oversight of that. You don't know how much is being spent in a year. You don't know the labour hire arrangements that operate across the Public Service.

Senator Cormann: We have oversight.

Senator GALLAGHER: You look at graph 1, and if graph 1's alright then you're happy.

Senator Cormann: And there are a lot of numbers that underpin graph 1. Clearly, the financial reporting aggregate across the Commonwealth is giving us absolutely the information that we need, but the decision-making is of course devolved. The decision-making in relation to the allocation of departmental resources appropriately is devolved to the departmental and agency level. Agency heads have a responsibility to ensure that their decisions on the allocation of departmental resources deliver value for money for the taxpayer. That is a core obligation that they have, and the financial data in aggregate, as reflected in that graph, demonstrates that across the government we're being successful.

Senator GALLAGHER: What do you think about employing SES officers by labour hire? Do you think that is good practice?

Senator Cormann: Individual departments make judgements on what the appropriate arrangements are, given the duties and responsibilities and the broader context. I can't give you a blanket statement in relevance to that.

Senator GALLAGHER: So you have no problem with SES people being labour hire?

Senator Cormann: Look, if you have a specific issue that you want to raise, raise a specific issue. I am not going to provide blanket commentary.

Senator GALLAGHER: The NDIA has 14 SES band 1, six SES band 2, and one SES band 3 employed through labour hire arrangements.

Senator Cormann: So what is your point?

Senator GALLAGHER: So you have no problem with that, senior executive service in the Public Service?

Senator Cormann: I trust that every agency head knows their obligations—

Senator GALLAGHER: So you can outsource your leadership now, can you, of your Public Service?

Senator Cormann: to ensure that they deliver value for money.

Senator GALLAGHER: So you can outsource the leadership of the agencies to labour hire companies that would be taking a proportion of that?

Senator Cormann: Individual agency heads have got to make judgements on what the appropriate allocations of their departmental resources are in their agencies.

Senator GALLAGHER: But as a practice, you don't have an issue with it, if it is?

Senator Cormann: I trust that the agency heads across the Commonwealth Public Service are making appropriate decisions around how to deploy the departmental resources that they are responsible for.

Senator GALLAGHER: I have probably taken that as far as I can. I don't know how that interacts with responsibilities for the SES under the Public Service Act and all those merit principles and those other arrangements that are meant to guide a high-performing Public Service, if you are just shopped in on labour hire. I don't know how that would all apply.

Senator Cormann: Is that commentary?

Senator GALLAGHER: Do these things not bother you as a government administrator?

Senator Cormann: I am absolutely satisfied that agency heads across the Commonwealth Public Service are making the appropriate decisions about how to deploy the departmental resources at their disposal to maximum effect.

Senator GALLAGHER: I will now ask some general questions about the use of limited tenders. I note Finance put out some additional guidance to agencies on the Commonwealth Procurement Rules in acknowledgement there was more money going around and the need for people to be informed about that. That is correct, isn't it? There was a guidance note, I think.

Mr Danks: That's correct. We issued a procurement policy note for COVID.

Senator GALLAGHER: Do you put it on your website and it goes around in a staff email? Tell me how you draw that to the attention of agencies?

Mr Danks: It is similar to the discussion we had this morning about economic benefits guidance. We would have emailed it out to our senior guidance procurement officials reference group.

Senator GALLAGHER: Does that reference group meet?

Mr Danks: It meets normally quarterly. It hasn't during COVID because of obvious restrictions, but we are looking at having some intensive weekly meetings in November on single-topic issues remotely, so via—

Senator GALLAGHER: What single-topic issues?

Mr Danks: They are single-topic issues that have come up during COVID.

Senator GALLAGHER: What are they?

Mr Danks: I thought you would ask that. I will have to take it on notice. I don't have that information in front of me.

Senator GALLAGHER: But could it be something like limited tenders?

Mr Danks: It could be, but I will have to take it on notice exactly what the tenders are.

Senator GALLAGHER: Why haven't you met when it has been a really busy procurement time? We have all been meeting virtually and doing those sorts of things.

Mr Danks: The formal meeting hasn't met, but there certainly has been engagement from Finance to relevant agencies during COVID to support COVID-related procurements. Our engagement with agencies continues, but this formal SPORG meeting hasn't. I chair a procurement consultative roundtable, which is below the secretary's roundtable, and we have met during COVID.

Mr Jagers: I might just add that the chief operating officer and the committee have met very regularly during the COVID period. That has also considered procurement issues and procurement policy notes that have been transmitted out to agencies.

Senator GALLAGHER: Have you had any concerns drawn to your attention from any of the additional procurement activities that have been undertaken as part of COVID? Or would you normally?

Mr Danks: I am not aware of any concerns that agencies have come to me on in relation to procurement issues. I think a lot of agencies have been able to use limited tender provisions within the CPRs to be able to procure the goods they need during COVID in an emergency situation.

Senator GALLAGHER: If you look at the data from AusTender between January and October this year, \$16.2 billion in contracts has been awarded through limited tender, compared with \$13.7 billion awarded during the same period in 2019. Do you monitor in any way the use of limited tenders? Is there any reporting? Or do you watch the data for the reasons why limited tender is being used?

Mr Danks: We do watch the data and we do have reports to identify what limited tender provisions are being used. AusTender has the ability to tag which limited tender exemption is being used for each tender that is published.

Senator GALLAGHER: And what can you tell me about that, where you say you have reports?

Mr Danks: Most of the limited tender use in 2018-19 was around the exemption 10.3.e—additional deliveries by a regional supplier intended as replacement parts, extensions or continuation for existing goods and services for compatibility.

Senator GALLAGHER: Are they similar to amendments or to contracts?

Mr Danks: It would be where you have done a full open tender for a good and there is a replacement part for that good that only works for that good you have purchased, so you can only go back to the one provider to get that replacement part.

Senator GALLAGHER: So it might be you have had a contract with them previously and this sort of hangs off that original contract, even if that contract is not in place?

Mr Danks: That's my understanding, yes.

Senator GALLAGHER: You said that's the majority, is it?

Mr Danks: In 2018-19 it was approximately 46 per cent of the costs of the limited tender process. In 2018-19 it was second-top, which was 46 per cent by value is supplied by a particular business due to an absence of competition for technical reasons.

Senator GALLAGHER: Where you say '36 per cent of value', what is the value?

Mr Danks: It is approximately \$5.7 billion in contact value has been flagged as limited tenders during the 2018-19 financial year.

Senator GALLAGHER: Sorry, that was \$5.7 billion flagged as—?

Mr Danks: Limited tender conditions for financial year 2018-19.

Senator GALLAGHER: You have an annual figure. So that figure where I have run a report, where it says \$16.2 billion in contracts, that would cover multiple years. Is that right?

Mr Danks: I don't know what report you have run.

Senator GALLAGHER: But what you have just gave me then was an annual figure?

Mr Danks: It was the 2018-19 annual figure.

Senator GALLAGHER: Is there anything else in the reports?

Mr Danks: In addition to the limited tender exemptions in section 10 of the CPR, there are limited tender reasons. Almost 80 per cent of limited tender contracts were conducted due to the following reasons: \$5 billion—this is a different subset again—or 30 per cent of all limited tender contracts were reported as exempt from CPR to protect essential security interests or human health; \$2.8 billion worth of these contracts related to leasing a moveable property; \$2.6 billion worth of these contracts were for additional deliveries by an original supplier in order to maintain compatibility—that is one we just ran through; and \$2.1 billion was due to an absence of competition due to technical reasons—again, that is the category we just talked about.

Senator GALLAGHER: And why do you keep an eye on all of this?

Mr Danks: Obviously AusTender is designed for transparency purposes. Limited tenders are an important use of the Procurement Rules in certain circumstances. We did recently—in the last couple of years—upgrade AusTender to allow for the splitting of limited tender reasons so we can see where there are trends. But, as the secretary and the minister have been saying, it's up to accountable authorities to determine the most appropriate way to spend resources. That will include, from time to time, the use of limited tenders.

Senator GALLAGHER: Do you monitor the contract amendments that seem to be pretty widely used, where the original contract is let but then there are amendments to amendments, sometimes going to double the value of the original contract? Do you have reports on that?

Mr Danks: It is published in AusTender, but I do not have any reports or statistics with me today.

Senator GALLAGHER: So it's not something you necessarily monitor? I think you said earlier that you do monitor the use of limited tender, but you don't have a similar role on the use of amendments to inflate or to add onto contracts?

Mr Danks: Not with me today, but I can take it on notice to see if we report on that internally.

Senator GALLAGHER: Okay. The ANAO's report on procurement contracting, which we were talking about yesterday in relation to transparency, identified thousands of contracts that had been amended, sometimes increasing in value by over 200 per cent. In some instances, it had taken a contract from below the \$80,000 threshold to above the threshold as part of doing that. Is there any discussion about the use of amendments with this procurement group? Might that be a single topic that you'd be looking at?

Mr Danks: I've taken it on notice, Senator. I'll have to get back to you to see whether that's a topic we discussed.

Senator GALLAGHER: But from your point of view, looking at procurement, you're not overly concerned about the use of contract amendments to get around the Commonwealth Procurement Rules?

Mr Danks: We operate a devolved framework. It's up to the accountable authority to make sure those Procurement Rules are complied with. If that means amendments that go above the threshold, it's a matter for the accountable authority to make sure the appropriate procurement process is followed.

Senator GALLAGHER: Yes, but if there's no compliance and no consequence for that kind of behaviour or using a system to get around particular rules—whose role is to monitor and enforce compliance with the rules?

Mr Jagers: Amendments to contracts are recorded on AusTender for transparency purposes, so it's very clear if a contract has been amended and the expected expenditure has increased. That's the way AusTender works: it makes it transparent and makes it clear that the agency's accountable authorities and delegates have made those decisions.

Senator GALLAGHER: But the issue I'm trying to get at is that you can win a contract for, say, \$250,000. It was open tender—sometimes it's not, but say it's open tender. Then a month later there's an adjustment for, say, half that value again, which is limited, because you're the owner of that or you won that original contract. It seems to me there are other examples with limited contracts, particularly this year, when limited contracts have been used extensively—for legitimate reasons, I think. There are certainly explainable reasons for this year. But, month by month, there are amendments that seem to just top up and sometimes exceed the original value of the contract. Yes, it's transparent once it's done, but it's more like a reporting—'Yes, we've done it, and that's what it is'—as opposed to value for money or giving people a fair shot at government work.

Mr Jagers: There's a devolved accountability framework: the accountable authority does have to make those decisions in accordance with the CPRs. There were 78,000 contract notices published on AusTender last financial year.

Senator GALLAGHER: Yes, but you can run reports, can't you?

Mr Jagers: Well, there is additional reporting that we've added to the system. I think Mr Danks has taken on notice exactly how we're reporting on changes to contracts that have been awarded and if we have any set of data. So we will take that on notice.

Senator GALLAGHER: Okay. I put this to you: can you have a look at the way amendments are being used across the Public Service, whether it's through this procurement roundtable group or whatever. It seems to me the audit has picked it up as a bit of an issue. I've had a quick look at a number of contracts. It seems to be happening more than it's happened in the past, and I think it's worth having a look at from a good governance point of view. But I'll leave that there and—

Mr Jagers: Thanks, we're happy to look at it.

Senator GALLAGHER: follow up with you at the next round. Do you have some questions, Senator Ayres?

Senator AYRES: I want to ask about the Service Delivery Office. When did that commence within Finance?

Ms Huxtable: It transferred from the Department of Employment in December 2016.

Senator AYRES: So how many staff work in that office?

Ms Veneros: Under the ASL, there are 88 staff at the moment provided to the SDO.

Senator AYRES: What projects is the office working on?

Ms Veneros: Primarily, the SDO focuses on the delivery of shared services, which are focused on HR and financial transaction services to 15 clients across the Commonwealth.

Ms Huxtable: The Service Delivery Office is one of a number of shared service hubs across the Commonwealth, and this one is managed through Finance.

Senator AYRES: Who are those clients? I don't need an exhaustive list, but what kind of—

Ms Huxtable: Finance itself and the Department of Education, Skills and Employment. There are a number of agencies within the education and employment portfolio. Ms Veneros would have the complete list.

Ms Veneros: I do have the complete list. Would you like me to go through it?

Senator AYRES: Yes, thank you. That would be good.

Ms Veneros: There's the Asbestos Safety and Eradication Agency; we provide some IT support services to the Attorney-General's Department; there's the Australian Building and Construction Commission; there's the Australian Institute of Aboriginal and Torres Strait Islander Studies; there's the Australian Public Service Commission; there's the Australian Skills Quality Authority; as the secretary said, there's the Department of Education, Skills and Employment and the Department of Finance; there's the Department of Social Services; there's the Digital Transformation Agency; there's the Independent Parliamentary Expenses Authority; and there's the National Indigenous Australians Agency.

Senator AYRES: I want to ask some questions about e-invoicing in a moment. Some of those projects will be e-invoicing projects, but the rest of them are more in HR—

Ms Veneros: Financial transactional services.

Ms Huxtable: This is basically providing the corporate back office functions, if you like, across all those entities.

Senator AYRES: So you can see some of those entities are quite small entities, and it's more efficient to have that capability sitting back in Finance; that makes sense to me. Is there a residual effect where Employment, where the office previously was, is maintaining that capability that's been pulled back to Finance? I think they were a big—

Ms Huxtable: The Service Delivery Office is part of a broader whole-of-government shared services program. There are a number of shared service hubs that operate across the Commonwealth which aggregate the HR, payroll and financial transaction functions around these hubs. So we are one of a number, and there is separate work going on right now into what a next phase around a technology platform might look like, particularly in relation to SAP services, which are consumed by a higher proportion of Commonwealth entities.

Senator AYRES: Is there a significant amount of expenditure in individual agencies on those?

Ms Huxtable: That's correct, and the logic of this is how you bring together the purchasing power of the Commonwealth but also in that process provide higher value-add services using the latest techniques and the latest technology that you can. You can have stronger protections around data in that environment. So it's part of a much bigger program, and the SDO is just one element of that.

Senator AYRES: And building some capability around those issues internally?

Ms Huxtable: Yes, that's correct.

Senator AYRES: I don't want do drift back to the discussion we were having before, but, agency by agency outsourcing that capability does present the possibility, doesn't it, of a diminution of capability inside agencies to deal with questions like—

Ms Huxtable: There certainly is. HR can be a very complex environment and needs technical skills, and it's difficult to source specialist HR staff in terms of the calculation of some of these payments et cetera. But this really is looking at areas where agencies can bring that together—if they were to provide all of these individually, there's a lot of duplication of effort that would occur in that regard—and have a much more standardised approach. It also supports greater flexibility and mobility across the public sector so that when people do move between agencies it's a much more streamlined movement. We faced this when we had staff going down to Services Australia, which Lucelle can talk about, and the capacity to create a mobile platform where they could still access all their HR related information very simply and easily. So we see it as very much supportive of a one-APS, one-way-of-doing-things approach. In the case of the Service Delivery Office, we work very closely with agencies to whom services are being provided. It is an end-to-end process. There are functions that rightly occur in agencies and there are functions that rightly occur in the SDO, and there is a bridge between the two that creates this end-to-end corporate support.

Senator AYRES: The annual report says that Finance was the first entity to adopt e-invoicing through the SDO, which is appropriate probably, and that Finance and Services Australia were the first entities enabled to receive e-invoices from suppliers. Does that mean Services Australia isn't doing that through the SDO?

Ms Veneros: That's correct. Services Australia have their own capabilities. They are a hub provider and they have their own capabilities.

Ms Huxtable: Sorry, I thought you said, 'Does that mean Services Australia are doing it through the SDO?'

Senator AYRES: No. They're not doing it through the SDO. That's right.

Ms Huxtable: Sorry, I didn't hear you properly—separate functionality.

Senator AYRES: Education are adopting invoicing through the SDO in the first quarter of 2020-21. Has that happened now?

Ms Veneros: We're working with the department of education at the moment to complete their adoption of the e-invoicing. It isn't yet into its production phase.

Senator AYRES: That quarter's over now. What's the timetable that you expect?

Ms Veneros: We're working with the department to complete that work by the end of this calendar year.

Senator AYRES: So quarter 2?

Ms Veneros: Yes.

Senator AYRES: I see that \$3.6 million over two years was set aside in this year's budget to facilitate the adoption of e-invoicing across all levels of government. I assume that's part of

delivering the government's commitment on shorter payment timetables for business. Is Finance receiving any of that funding?

Ms Veneros: My understanding of the alignment with that money is that funding has been provided through to the Australian tax office. Finance hasn't received any of that money.

Senator AYRES: So it's just a payment to the ATO. It is not across agencies to facilitate?

Ms Veneros: It's to the ATO for them to do the adoption.

Senator AYRES: To work with agencies to deliver that.

Ms Veneros: Yes. I'll leave that matter for the ATO to answer.

Ms Huxtable: Correct me if I'm wrong, but I think the ATO has some particular responsibilities around the PEPPOL framework, which stands for the Pan-European—it is the e-invoicing standards framework. The ATO has taken the lead on that—remembering that there are two points to an e-invoice transaction. One is the receiving, and one is the transmitting, so businesses need to be e-invoice enabled, and the receiving entity needs to be e-invoice enabled as well.

Senator AYRES: Will Finance have a role in relation to the adoption of this across government, or is that being left to the ATO?

Ms Huxtable: We're on a working group. We're an active participant in this work, and we have been for some time. We participate on a working group.

Ms Veneros: We also share our experience in adopting e-invoicing through to the ATO so that they can provide case studies to other entities.

Senator AYRES: But the ATO is the lead agency in this program, is it?

Ms Veneros: ATO working with Treasury.

Senator AYRES: So you won't be able to tell me whether there's a schedule for rollout?

Ms Huxtable: I think you'd be better asking Treasury in regard to that. I think Treasury has a sort of policy oversight responsibility and the ATO has an operational responsibility. I'd probably start with Treasury. We have been very focused on what we do ourselves to ensure that we are e-invoice enabled and what support, in a practical sense, we can provide to other entities who are seeking to become e-invoice enabled.

Senator AYRES: At that discussion between the agencies, has there been a canvassing of options for mandatory e-invoicing?

Ms Veneros: I'd have to take that question on notice.

Ms Huxtable: I think probably that's better directed to Treasury as the policy owners in this space.

Senator AYRES: Thank you.

Senator GALLAGHER: I have a follow-up question from yesterday. There was going to be some checking of the Leppington Triangle files. Ms Huxtable, is there anything else that people can tell me about that, that you've discovered overnight?

Ms Huxtable: I'm not sure. I've been here, so—

Senator GALLAGHER: No? You haven't seen anything? I'm presuming it comes through you.

Ms Huxtable: No, I haven't.

Senator GALLAGHER: Can I confirm, though, that under the Lands Acquisition Act approval has to be provided through Finance before land can be purchased?

Ms Huxtable: There's a pre-acquisition declaration. That's on that timetable.

Senator GALLAGHER: That's right.

Ms Huxtable: The penultimate step was the pre-acquisition declaration.

Senator GALLAGHER: But I'm not just talking about the Leppington Triangle.

Ms Huxtable: There's a different set of processes when it's through a compulsory acquisition than when it's a—I think we actually have some flowcharts in the discussion paper on the LAA review. There are some flowcharts that we could provide on notice which set out compulsory versus by agreement.

Senator GALLAGHER: Yes, that would be very handy, because compulsory goes up to the minister and by agreement goes by another path. But with either path, Finance has to give technical approval through the Lands Acquisition Act. Is that right?

Mr Jagers: The ANAO did refer to those two different processes under the two different scenarios.

Senator GALLAGHER: Yes, but I'm just asking in a general sense for land acquisition: you have to issue approval by agreement or by a compulsory acquisition?

Mr Jagers: Yes. There is a requirement under section 40(1), but the requirements are quite different for a compulsory acquisition and a non-compulsory acquisition.

Senator GALLAGHER: You have more control over a compulsory acquisition, because it goes up to the minister.

Ms Huxtable: Just to go back to the evidence that we provided yesterday: with the by-agreement path, the decision-maker is the entity—

Senator GALLAGHER: Yes, I understand that.

Ms Huxtable: and we are effectively operationalising a decision that has been taken in an entity.

Senator Cormann: You keep saying 'approve'. We don't approve.

Senator GALLAGHER: You give authority.

Senator Cormann: 'Operationalise' is the word Ms Huxtable has used.

Senator GALLAGHER: But the legal term under the act is not 'operationalise', is it? I think you authorise under section 40(1).

Senator Cormann: The decision-maker is the relevant entity conducting the transaction when it is by agreement. If it is a compulsory acquisition, I have got very direct involvement.

Senator GALLAGHER: I'm just trying to understand. No department can go around and buy land without you providing some declaration under the Lands Acquisition Act; correct?

Mr Jagers: There is a process—

Senator GALLAGHER: I understand the process.

Mr Jagers: to confirm that that purchase meets the requirements of the LAA.

Senator GALLAGHER: So that has to happen. They can't transact a sale without that happening?

Mr Hunt: I think the evidence we gave yesterday was clear that that can't happen without us confirming that the requirements of the LAA have been met.

Senator GALLAGHER: That's right.

Mr Hunt: So for an acquisition by agreement, which is what the Leppington acquisition was, the decision-maker, as is made clear in the ANAO report, is the agency. But the Finance delegate confirms that the requirements of the LAA have been met.

Senator GALLAGHER: I'm not trying to be tricky and make any allegation that you were the decision-maker; I'm just trying to understand that no agency can go around shopping for land and transacting and settling that deal without having authorisation under the Lands Acquisition Act from the Department of Finance.

Mr Hunt: I think the specific question you're asking goes to every acquisition of any piece of land. I'd have to take on notice whether there are circumstances that go outside the LAA.

Senator GALLAGHER: You're not aware of any?

Mr Hunt: I'm not aware of any since I've been doing this role since August. I would have to take the specific question you've asked—are there any circumstances that go beyond the Lands Acquisition Act?—on notice.

Senator AYRES: But, consistent with the Lands Acquisition Act, there are two propositions—compulsory and by agreement. Senator Gallagher's question is within that framework. You can answer that now, can't you?

Mr Hunt: I can; that's right.

Senator GALLAGHER: So, by agreement or by compulsory acquisition, that has to come—the minister's word is 'operationalise'; I think the legal term under the act is 'authorise'—from the Department of Finance, for those two pathways?

Mr Hunt: For those two pathways; that's right. The report draws out the distinction between the two pathways.

Senator GALLAGHER: Yes, I understand that. Thank you, Mr Hunt. I just wanted to tidy up the end of that. I just have one other question around the grants programs.

CHAIR: And that will finish off outcome 2?

Senator GALLAGHER: Yes. I will be very quick, because we did cover this a lot yesterday. You've got a section in your annual report around grants guideline reviews and how quickly you've been working to get guidelines in place. With the extra billions of dollars that are going through grants programs, as announced in this year's budget, are you going to be approving all of those grants guidelines? Will you have some sort of line of sight on them? Are they going to form any of the tracking, for example, that you do as part of the—I think you might have the COVID-19 Relief and Recovery Fund as one of them.

Ms Huxtable: There are grants programs that would be included in some of those broader programs, but more generally, in terms of what we do in the grants space—

Senator GALLAGHER: But that tracking is just to monitor the money transactions.

Ms Huxtable: The expenditure, not specifically—

Senator GALLAGHER: It's not going to be about—

Ms Huxtable: Dr Helgeby and Mr Schreiber can talk about what we do in the normal course of events in the grants guidelines scrutiny space.

Senator GALLAGHER: I'm just wondering whether there is anything more you are doing with the amount of money that has been allocated through grants and funds in this budget—whether there is any enhanced role for you?

Dr Helgeby: I think it would be fair to say that it is not an enhanced role and it is not a different role. Obviously we will be active with those agencies that come to us and seek our advice. We don't approve grants guidelines. We do support agencies. We provide comments about them. You would expect the volume of that interaction to change. But there is not a change to the relationship and there is not a change—

Senator GALLAGHER: You haven't been asked to do anything more to make sure that this money is going to be used to deliver good value, and all the rest of it?

Dr Helgeby: There is not a change to the relationship.

Senator GALLAGHER: Some of these have existing funds, so the guidelines presumably apply to them—like the water one; there is \$2 billion under the JobMaker plan for funding for the National Water Infrastructure Development Fund. Will they all have grants guidelines and things published before decisions are taken?

Dr Helgeby: There are many things called funds that may or may not be captured. I don't know the detail of that particular one. If I ask you to consider the Commonwealth Grants Rules and Guidelines 2017, paragraph 2.6 has a list of things which are not grants and a list of things which, therefore, aren't governed by the grants rules. Without further detail, I wouldn't be able to give you a clear yes or no about a particular item.

Senator GALLAGHER: What might be better is if I put on notice for you the grants and funds I am interested in, and whether the grant rules, whatever they are called—the CGRGs—apply and whether there will be a requirement to have guidelines around them. Is that the best way of dealing with that?

Dr Helgeby: Yes, we will take that on notice.

Senator GALLAGHER: Thank you.

Senator AYRES: I just want to confirm that we are on outcome 3 after lunch.

CHAIR: Yes.

Senator AYRES: There was a line of questioning I had that I think was mostly directed to Ms Huxtable, and I was directed to outcome 3 for that. You'll be available after lunch?

Ms Huxtable: I'm always here!

Senator AYRES: Very good!

CHAIR: If there are no further questions for outcome 2, other than the part that applies to Senator Seselja's responsibilities, which we will deal with this afternoon, those officers who are not required are free to go. Thank you very much for your assistance to the committee yesterday and today. The committee will break for lunch now. We will resume at 1.30 pm with outcome 3.

Proceedings suspended from 12:33 to 13:31

CHAIR: The committee will now resume. We are commencing our examination of outcome 3 of the Department of Finance. Senator Farrell, you have the call.

Senator AYRES: Before we start, I understand it's customary at this point in time to ask for staffing tables to be provided. Thank you very much.

CHAIR: Mr De Silva, why don't we work with broadcasting in the background to try to restore your sound—or, in fact, establish your sound. We might proceed with questions as is.

Senator FARRELL: It is customary for Mr De Silva to be present in Canberra. Is there a particular reason he is in Melbourne? Is that his home base?

Ms Huxtable: Yes, that's correct. He has been in Melbourne for some time due to quarantine.

Senator FARRELL: Mr De Silva is normally based in Melbourne?

Ms Huxtable: He's based here during the week, but he lives in Melbourne. Since the lockdown occurred in Melbourne, he's been working from Melbourne.

Senator FARRELL: Greatest sympathies to him, then.

CHAIR: And to all Victorians.

Senator FARRELL: Thank you to everyone for coming along today. I refer to two separate investigations commissioned by the department regarding the conduct of Michael Sukkar and Kevin Andrews and the allegations that they directed taxpayer funded electorate staff to conduct branch-stacking activities. My first question is: does directing taxpayer funded electorate office staff to conduct party political duties constitute a breach of the Members of Parliament (Staff) Act?

Mr De Silva: Under the MOP(S) Act, electorate office staff cannot engage in party political activities while they are on paid duty.

Senator FARRELL: And, like the rest of the community, when they're in their own free time, they can of course do those things.

Mr De Silva: In their free time, if they're volunteering, if it's on the weekend, they can engage in whatever activities they choose.

Senator FARRELL: Can you please explain to the committee the protocol for conducting these sorts of investigations where these sorts of issues arise?

Ms Huxtable: The protocol is on the website, as you'd appreciate, but Mr De Silva can also step through the protocol.

Senator FARRELL: I would appreciate that, Mr De Silva.

Mr De Silva: With respect to the actual protocol, as the secretary said, that's on the website. There are also processes that are outlined on the MaPS website in terms of an initial assessment to establish, with respect to an allegation: is it credible or is it minor? Based on the issues that might be alleged, we would basically start to look at what information and records we hold within Finance. For example, if it's an alleged misuse of a PPR work expense, we would have a look at what work expense claims had been lodged and reimbursed, noting that, for a particular activity—say it's a publication—a parliamentarian may not have lodged anything. A pamphlet may have been made but they may not have lodged any expenses and

sought reimbursement for that. If it related to, say, an allegation regarding MOP(S) staff, as I said, with respect to political party activity, again we would assess what information and documentation we hold within Finance. That might involve identifying and examining any staff and payroll records that we have. As I said, it may go to what dates were worked by staff et cetera. That's a general initial assessment. If it's determined, based on the public interest, the complexity or the size of the issues at hand—so the volume of documentation that we need to go through—we may engage in independent review person or firm.

Senator FARRELL: What powers does the department have to do these investigations?

Mr De Silva: We don't have any statutory powers. It's an administrative action. Any information that we request and any response to that is done on a voluntary basis. I would note that, under the protocol, if there is a serious matter, we can refer non-travel work expenses to IPEA, which does have statutory information-gathering powers.

Senator FARRELL: In terms of examining the department's internal records, I imagine what the department holds in relation to the employment of staff is fairly limited—for example, employment contracts and leave applications. Would that be fair to say?

Mr De Silva: We would have employment contracts and leave applications but also payroll—so days that staff work et cetera. If it's a full-time person then it's standard hours, but it might be a part-time employee and what days they worked, or, if it's a casual employee, what days they worked over a period of time.

Senator FARRELL: Right. When you're doing these investigations, you're primarily relying on the party being investigated to voluntarily provide you with the relevant documents.

Mr De Silva: Correct.

Senator FARRELL: So what additional information or documentation did you seek from Mr Sukkar and Mr Andrews in respect of this inquiry?

Mr De Silva: We sought information regarding anything that was relevant to allegations relating to either the PBR Act or the MOP(S) Act.

Senator FARRELL: What did you understand by what was relevant? What were you hoping to get from this request for information? What do you consider to be relevant in these circumstances?

Ms Huxtable: To add to that, these particular investigations were in two steps, effectively. There was initial work that was done within the department to identify any relevant documents, as Mr De Silva has noted.

Mr De Silva: Yes.

Ms Huxtable: But, following that initial step, we made a decision to engage an independent investigator, who then conducted the investigation from that point. So, in terms of the information being sought of the two members of parliament at that point, that was really a matter for the independent investigator, noting the investigation was occurring under the framework of the legislation for which we have responsibility:

Senator FARRELL: Yes, I'll come to that so-called second step, but just in terms of the first step I think Mr De Silva referred to some relevant documentation. What I'm seeking to

know is: what did you consider to be the relevant documentation that you were seeking from Mr Sukkar and Mr Andrews?

Ms Walsh: Perhaps I could come in there.

Senator FARRELL: Sure.

Ms Walsh: The two circumstances that you're describing, there were allegations made in the media.

Senator FARRELL: Yes.

Ms Walsh: What we sought were those relevant to the legislation that governs MOP(S). Some of those allegations obviously are not within our purview, so, in the sense of the sorts of things we were looking at, it was only those relevant to the PBR Act.

Senator FARRELL: What documents are we talking about? What information are we talking about? What were you looking for when you asked these two members of parliament to provide you with the relevant documentation? What is it that you were trying to get from them?

Ms Walsh: I guess there was activities of electorate staff, because that falls under the MOP(S) Act; non-travel-related expenses, because that falls under the PBR Act; and then the engagement and employment of staff under the MOP(S) Act.

Senator FARRELL: So that was the information that you sought from them. What response—

Ms Walsh: No, I'm saying, in terms of what was alleged, that is the scope of finances.

Senator FARRELL: Unfortunately, Mr De Silva seemed to have disappeared from the screen.

CHAIR: It might be best if Mr De Silva could join via teleconference, which would be more stable. Sorry, Senator Farrell, you can continue if you wish.

Senator FARRELL: I was asking Mr De Silva about relevant documentation. He said relevant documentation was presented. You've explained the scope of that relevant documentation. My question was: what information were you expecting to get from Mr Sukkar and Mr Andrews?

Ms Walsh: The questions we would ask of them—is there any relevant information going to the point that Mr De Silva made earlier, that the provision of information to us is of a voluntary nature? So, we would have them: do they have any information relevant to those? Then what they decide and choose to provide—

Senator FARRELL: What did they provide at that point?

Ms Walsh: This is where—

Senator FARRELL: Just remembering that we are talking about step 1 here. We will come to step 2.

Ms Walsh: We were asking if there were any additional pieces of information in relation to the employment of staff or the use of office expenses relevant to the allegations that perhaps we didn't have or were unaware of, and any information they chose to provide.

Senator FARRELL: What was their response?

Ms Huxtable: They provided information.

Ms Walsh: They provided information.

Ms Huxtable: Normally we would not go into the detail of what was inside the investigation. You would appreciate that we have never done that in the past, but we will be as helpful as we can be, noting that.

Senator FARRELL: Thank you. What can you tell me then about what information was provided?

Ms Walsh: What I can say is that both Mr Sukkar and Mr Andrews participated in the review in a positive, proactive and voluntary manner.

Senator FARRELL: All right. I am now incorporating the second stage—so, we have the first stage and second stage and the second stage is the investigator. Did the department or the investigator ask for the reported 2018 memo headed 'Review of factional staff', which details the alleged involvement of staff employed by Mr Andrews in recruiting factional members and which was reportedly endorsed in writing by Mr Sukkar with the words 'good summary'.

Ms Walsh: As I said, the review, as you know, was done by an independent legal firm.

Senator FARRELL: Okay. But I am asking you if you requested this document in your part 1 of the investigation, and, secondly, did the investigator request this document in part 2 of the investigation?

Ms Walsh: Again, in both parts, both Minister Sukkar and Mr Andrews were asked whether they had any information that was relevant to the inquiry. They participated fully. If you don't mind giving me a couple of minutes to check that reference that you provided me.

Senator FARRELL: Sure.

Ms Walsh: But we are going into a level of detail that I just need to check my notes on, if you wouldn't mind.

Senator FARRELL: All right. Do you want to do that now while we—

Ms Walsh: If you have another question I can come back to that.

Senator FARRELL: I am happy to wait if you want to have a quick check. That request was in a letter I sent to Ms Huxtable, so—

Ms Huxtable: I have that letter here somewhere. I think we would need to take on notice this level of detail. I can assure you that we did a thorough review of our records. We engaged with the two members of parliament and they provided additional information. It looks like he might be coming back into the room now. We also engaged an independent investigator, who had further engagement with the two members in that regard. But, as to the details of the documents that may or may not have been provided, to be honest I don't have knowledge or awareness of that.

Senator FARRELL: Except that in respect of this particular document I did write to you personally, asking you to look at , or request this documentation from Mr Sukkar, so it—

Ms Huxtable: In your letter to me you sought an assurance that we were conducting a full and proper investigation into the matter. As I've noted, we did both initial work ourselves but then engaged an independent reviewer. The two members cooperated fully with the review and with the reviewer.

Senator FARRELL: Yes.

Ms Huxtable: I think, though, if we get into those individual bits of documents that might have gone from one to the other—

Senator FARRELL: Except that this is the rather crucial bit of the puzzle that relates to the alleged wrongdoing by the two members of parliament. So—

Ms Huxtable: I don't know if Mr De Silva is back on the line—

Mr De Silva: Yes, I am now.

Ms Huxtable: Thank you, David. Perhaps you can just confirm this, that all relevant information was considered as part of the independent review?

Mr De Silva: That's correct. The independent reviewer wrote to both the members, outlining the allegations that were being examined and requesting information with respect to those. Information and documentation was provided back.

Senator FARRELL: Yes. You may not have heard the question, Mr De Silva. What I'm asking is: did either the department or the investigator, stage 1 and stage 2, request from Mr Sukkar or Mr Andrews a document that was headed 'Review of factional staff', on which Mr Sukkar had written the words, 'good summary'? In other words, the main document that started the whole investigation. Did either the department or the investigator request the key document in the allegations that were aired through the media?

Mr De Silva: I did miss all of the answer that the secretary or the deputy secretary may have provided. But—

Senator FARRELL: To summarise that: she's just looking through her notes to see whether or not that document was requested.

Ms Huxtable: That being Ms Walsh.

Senator FARRELL: Yes, Ms Walsh.

Ms Walsh: My response was that all relevant documents were considered by the independent investigator.

Mr De Silva: That's correct.

Senator FARRELL: Can I assume from that that the answer is yes—that document was sought from the two members of parliament?

Ms Walsh: What I can say is that the independent reviewer asked both Mr Andrews and Mr Sukkar whether there was any documentation that they held relevant to the allegations that were made. They provided, on a voluntary basis, the documentation they found to be relevant. That's what I can—

Senator FARRELL: Can I therefore say that this particular document, which seemed to be quite a crucial document in the whole coverage of the story, was sought and was provided?

Ms Walsh: In the sense that, in broad terms, relevant information was sought, yes.

Senator FARRELL: Yes.

Mr De Silva: It was considered, yes.

Senator FARRELL: What do you mean by, 'It was considered'? This particular document was sought, it was provided and it was—

Ms Huxtable: The framing that I had is that all relevant documents were sought and relevant documents were provided.

Senator FARRELL: Right.

Mr De Silva: That's correct.

Senator FARRELL: And, Mr De Silva, you're saying that you would have considered this document to fit into that category?

Mr De Silva: As Ms Walsh said, it was a matter that was determined by the reviewer regarding the sort of conduct. As the secretary said, all documents that were relevant to the scope of the reviews were requested from both Mr Sukkar and Mr Andrews, and a range of documentation and information was provided back in response to that and were considered by the reviewer.

Senator FARRELL: Yes.

Ms Huxtable: I'll just add a word of caution here: I am quite concerned that if we go down into individual documents that were sought or provided that we're getting well into the detail that underpinned an investigation. I'll just note that in that regard, and you noted yourself—

Senator FARRELL: Yes.

Ms Huxtable: that we don't have powers in this regard.

Senator FARRELL: No.

Ms Huxtable: So what's been provided to us has been provided on a voluntary basis. I think we have to be quite respectful of the basis on which we've received documentation. Not just that documentation, but—

Senator Cormann: That process applies equally across Liberal, Labor, National and Greens senators from any party in similar circumstances.

Senator FARRELL: I understand that.

Senator Cormann: It is an entirely non—

Senator FARRELL: I understand that, Minister, except that this particular document was publicly aired in the media and was the thing that started the whole investigation. So it's not just one of a whole host of documents; it appears to me to be—

Ms Huxtable: I'm making a broader point in respect of all of the documents that may have been gathered and considered.

Senator FARRELL: And I'm not going through every single document that you examined. What I'm after is: can we get an answer—and I think I've got it; I think the answer to my question is yes. You did request this document and it was provided and examined by either the department or the investigator. Is that a fair summary?

Ms Huxtable: I think that's a fair summary, noting that the review was done at arm's length from the department.

Senator FARRELL: I'm going to come to that. Did you ask for internal emails and SMS messages to be provided; and, if so, were they provided?

Ms Walsh: My response would be the same: anything that they deemed to be relevant to the allegations that we were reviewing is what we sought.

Senator FARRELL: The department issued a statement on 13 October that mentioned reviewing documentation but made no mention of having interviewed staff. In a report by the wonderful journalist David Crowe in *The Sydney Morning Herald* on 15 October, it was stated that staff were not interviewed. It said:

One person familiar with the affair emailed the Department of Finance on September 3 and again on September 9 but was not asked any questions about the matter and was not told how to give testimony to the inquiry.

In relation to that matter, were any of Mr Andrews's or Mr Sukkar's staff interviewed in the course of the investigation?

Ms Walsh: Again, we didn't undertake the review so that the manner in which the review was conducted and how it was done was determined by the—

Senator FARRELL: But you've read the review—

Ms Walsh: Well, I have, yes.

Senator FARRELL: And were any of Mr Andrews's or Mr Sukkar's staff interviewed in the investigation?

Ms Walsh: So, again, you're asking me to go into quite a lot of detail about the process.

Senator FARRELL: No. There's not very much detail at all. The report in *The Sydney Morning Herald* was that there was a staff member, they wanted to give evidence but nobody contacted them. They were not told—

Ms Huxtable: Can I just address that issue?

Senator FARRELL: Yes.

Ms Huxtable: We did have an approach and we provided information as to how that person could effectively make information available to us.

Senator FARRELL: To you or to the investigator?

Ms Huxtable: Through the MaPS portal. We didn't receive any information.

Ms Walsh: We sent that email on 10 September.

Senator FARRELL: So somebody did contact you as the newspaper report says. You provided them with information about how they should bring forward any evidence.

Ms Huxtable: How they could do it.

Mr De Silva: That's correct.

Senator FARRELL: And then nothing was received from them?

Ms Walsh: That's correct. And that procedure—

Senator FARRELL: Nothing was received from them to you. Do we know if anything was received from them to the investigator themselves directly?

Ms Walsh: The information that we provided them, in terms of how they could provide information should they choose, was to a MaPS email address. In terms of any other mechanism used, I don't have any awareness of that, but certainly to the MaPS email address

that we provided, which is one available to anybody. It's on the MaPS website. We didn't receive anything.

Mr De Silva: And no information was provided to that email.

Senator AYRES: Did they approach you to provide that information confidentially?

Ms Walsh: Not to me, no.

Senator AYRES: Who did they approach?

Ms Walsh: What do you mean confidentially?

Senator AYRES: The person who wanted to provide—

Ms Huxtable: From memory I think there was an email that was received. I'd need to go and check exactly the framing of that. I don't believe there was reference to confidentiality.

Ms Walsh: No, I don't recall that either.

Ms Huxtable: But, clearly, whatever is provided in these circumstances would be treated as confidential by the review process, by the nature of the process that we do.

Mr De Silva: They sent an email to the general Finance email address. It was forwarded to MaPS. We responded on 10 September, advising that any information regarding any misuse of non-travel work expenses could be provided to Finance, and we said that that could be sent to mpshelp@finance.gov.au. No information has been sent to that email address, and we have checked between that time and when the review was concluded.

Senator FARRELL: So, when *The Sydney Morning Herald* says that this person who attempted to contact you was not told how to give testimony to the inquiry, you would say that is not correct? You did provide them with an avenue to give that information?

Mr De Silva: We did advise how they could provide any information regarding the misuse and that it could be sent to mpshelp@finance.gov.au.

Ms Walsh: Senator, we're assuming we're talking about the same thing, and that's an assumption, of course.

Senator FARRELL: Yes.

Ms Walsh: We were contacted by an individual.

Senator FARRELL: Was there more than one person who made contact?

Ms Walsh: No, I'm just letting you know that—

Ms Huxtable: We're just assuming we're talking about the same person.

Senator FARRELL: Yes. I'm assuming, if there's only one person who's made—

Ms Huxtable: Yes, but you're citing a media report.

Senator FARRELL: I'm sure this is very accurate.

Ms Huxtable: So we assume we're talking about the same instance.

Senator FARRELL: Yes. But, so far as we know, there was only one person who made contact with you. The report seems to suggest that somebody had some information that was relevant to this inquiry, and they attempted to come to the department to provide that information, but, one way or another, they didn't. It wasn't explained to them how to do it. That's really the proposition. In other words, crucial information that related to the inquiry

was not provided either to the department or to the investigator. That's the guts of the *Sydney Morning Herald* story, and you say that's wrong because you did tell—

Ms Walsh: To be precise, what we're saying is that there was one individual who contacted the department, and we responded to that email with the relevant information in regard to how they would provide information should they wish to.

Senator FARRELL: And they didn't follow up?

Ms Walsh: We did not receive any information.

Senator FARRELL: Do you happen to know whether they followed up with the investigator directly?

Ms Walsh: I don't know.

Senator FARRELL: You don't know the answer to that question?

Ms Huxtable: And I doubt that that would have been possible, because I don't know that there was any information available as to who—

Mr De Silva: That's correct.

Senator FARRELL: Okay. Was this person a member of either Mr Sukkar's staff or Mr Andrews's staff?

Ms Walsh: Sorry, what person was that?

Senator FARRELL: The person who sent you the email—the one we've been talking about for the last 15 minutes.

Ms Walsh: I just wanted to be clear on that. It's probably not appropriate for me to identify email correspondence that we receive.

Senator FARRELL: Okay. So this person, I think we can say, was not interviewed. Was any other member of Mr Sukkar's staff or Mr Andrews's staff interviewed, either by the department or by the investigator?

Ms Walsh: As I said, the department didn't. We talked about those two stages. So the department did not—

Senator FARRELL: No, the department did not. And what about the investigator? Did they speak to anybody from Mr Sukkar's staff or Mr Andrews's staff in relation to this matter?

Mr De Silva: I think, again, we're getting into the specifics of a process, of how a review was conducted. So it might be better if we take that on notice.

Senator FARRELL: Is that because you don't know the answer to it or because you want to think about the proposition of providing us with that information?

Mr De Silva: I think it goes to the fact that when we obtain information—when we do interviews or have a third party conduct a review—it's provided on a voluntary basis and also a confidential basis. That goes to the ability for us to conduct reviews in the future.

Senator Cormann: Which is the way it's handled for members of parliament from all political persuasions, and I think it's an important principle.

Senator FARRELL: Yes; except that, if we go back to the fundamentals, allegations were made in the media that Mr Sukkar's staff and Mr Andrews' staff were engaged in branch-stacking activities. One would've thought that, if that were the case, the first people

you'd go to make an inquiry—'Did that happen?'—would be the individuals involved, and they would say, 'No, we didn't do that at all. Any activities we conducted with respect to the party were all out of hours.' But that's not the allegation here. If we can go back a little bit, this was a fairly serious set of issues at the time. You might recall a minister in the Victorian government lost his job and was kicked out of his political party. The issue was a big issue at the time in Victoria. What I'm saying is that it would seem to me pretty fundamental that, if you're conducting an inquiry, you'd at least ask the staff and give them a chance. 'These allegations have been made. They've been aired publicly. They've been in the media. Did you or did you not conduct these activities during work hours?' It seems to me fairly fundamental. I'm not asking for the names of the individuals and I'm not asking for the details of any examination. I'm simply asking: were these people asked or given an opportunity, for that matter, to respond to these allegations that had appeared in the media?

Ms Huxtable: Going back to what I said earlier in terms of seeking relevant information and that the relevant information was provided, I would say that extended to relevant information being provided with respect to those allegations about staff activity.

Senator FARRELL: The final paragraph of the department's statement that was issued on 13 October states:

The review concluded that:

- further investigation of the matters within the scope of the review is not warranted as there is not a sufficient basis to form a view that there was serious misuse of Commonwealth resources under the MOP(S) Act ...

With respect to that, did the review find that there was a minor misuse of the Commonwealth resources under the MOP(S) Act? And, if so, what action was taken?

Ms Huxtable: The wording that is included in that statement is precisely the wording—the conclusion—that the independent reviewer came to.

Mr De Silva: It's also the wording that is reflected in the protocol, when they refer a serious matter to IPEA for review, but, if not, if there's no issue or if it's just a minor matter, that would be within Finance. But there was no serious matter.

Senator FARRELL: I understand that's the wording. But my question is: was there a minor misuse? There was no—let's use the words—'serious misuse'. The protocol does deal with the issue of 'minor misuse'. The question I'm asking is: was there any finding that there was a minor misuse? There was no serious misuse. Was there a—

Ms Huxtable: The finding is as described there. There is no finding in addition to what is described there.

Senator FARRELL: It's fair to say that there was no finding of minor misuse either?

Ms Huxtable: There is no finding in addition to what is provided there.

Senator FARRELL: Under the protocol, if matters are determined to be more serious, they are referred to the Independent Parliamentary Expenses Authority. What would have constituted 'a more serious matter'? What would have been a matter that would have triggered a reference to IPEA?

Mr De Silva: I can talk in general terms. The protocol doesn't define what a 'serious matter' is, but we would look at things like the value of any claim made, whether there were

several claims and if there was a pattern. In this case, as the reviewer found, there was no serious matter.

Ms Huxtable: Is that set out in the protocol, David? Maybe it's not that specific.

Ms Walsh: It's set out—

Mr De Silva: It's not set out in the protocol. I'll double-check if it's on the website in terms of process. But they're just matters that are taken into account.

Senator FARRELL: Did the investigator give any reasons as to why the allegations were not considered to be serious enough?

Ms Huxtable: The investigator provided a report, and what we have provided is the outcome of their investigation, that there was an investigation and a report that sits behind that, which worked through all the issues, clearly.

Senator FARRELL: Yes, but my question is: why is it that the investigator decided that the allegations were not serious enough?

Mr De Silva: It would have been based on the information that they had examined and all documentation. Based on that, they drew that conclusion.

Senator FARRELL: Again, the department's statement issued on 13 October says:

The review did not consider those allegations that do not relate to Commonwealth expenditure or matters not administered by Finance.

The department has a policy overview of the Australian Electoral Commission that providing false party membership details to the Australian Electoral Commission is a breach of the Electoral Act. Was this investigated, checked or referred to the AEC?

Ms Walsh: As I said before—

Senator FARRELL: One of the allegations that was made was that people were falsely being put on the electoral roll as a branch-stacking exercise. That's an illegal activity. My question is: as part of this investigation, was any reference made by the investigator to the AEC so that this issue could be investigated and dealt with?

Ms Huxtable: The matter was reviewed in accordance with the protocol, potential misuse of non-travel related work expenses by the Department of Finance. It's clear in the report that we have provided—and also, I think, in my letter to you—that that was the framework in which these matters were considered.

Senator FARRELL: We heard at the PM&C session on Tuesday that the Prime Minister has not received a briefing on this issue from the Department of Finance. Did the Department of Finance offer a briefing to the Prime Minister or his office in respect of this matter?

Ms Walsh: No, we did not.

Senator FARRELL: Any particular reason?

Ms Huxtable: This matter was considered under the protocol, and we have, as I noted earlier, commissioned an independent investigation, which has found the finding as published in respect of no evidence of serious misuse. That kind of ends the matter. Early in the process, I believe we had a phone conversation with the Department of the Prime Minister and Cabinet just to advise them that I had received an approach from Mr Sukkar and Mr Andrews and that we would be conducting a review under the protocol.

Mr De Silva: That's correct.

Ms Huxtable: And that was pretty much it.

Senator FARRELL: PM&C rang you, or you rang them?

Ms Huxtable: I believe we contacted them just as a matter of courtesy.

Senator FARRELL: But you didn't provide the office with the courtesy of letting them know the outcome?

Ms Huxtable: Which office are you referring to?

Senator FARRELL: Your office.

Ms Huxtable: We advised our office on the day that we completed the report and we were going to put the outcome up on the website.

Senator FARRELL: Yes.

Ms Huxtable: We advised that we would be doing that on the day that we did it.

Senator FARRELL: Right, but you didn't advise the Prime Minister's office.

Ms Huxtable: No, we advised our minister's office.

Senator FARRELL: But, given that you'd had the courtesy to let them know about the receipt of the request from Mr Sukkar and Mr Andrews, you didn't follow up at the end of the process?

Ms Huxtable: I don't believe so. We can take it on notice, but I don't believe we had any further discussions with them, and clearly we put a statement up on our website. It was publicly available for all to see.

Senator FARRELL: I understand the department engaged a law firm, Ashurst, to conduct the review—is that correct?

Ms Huxtable: That's correct.

Senator FARRELL: The AusTender website shows two tenders were awarded to Ashurst, each for \$25,000 with a description 'Review of ministerial and parliamentary services'. Were these two contracts the contracts for conducting the review into the activities of Mr Sukkar and Mr Andrews?

Ms Huxtable: I expect they are.

Mr De Silva: That's correct.

Senator FARRELL: When were the contracts entered into?

Mr De Silva: From memory, the work of order, which is done under the Legal Services Panel, was placed on 4 September.

Senator FARRELL: For both investigations?

Ms Huxtable: That's correct.

Senator FARRELL: How long has the department been outsourcing these sorts of investigations?

Ms Huxtable: We come to a view with respect to what is in front of us about whether it is appropriate to have an independent reviewer and that will depend on a variety of factors. So it's really a judgement that we would make at the time. You would recall that we are often

dealing with other investigations or inquiries in relation to bullying, for example, and we have certainly sought to outsource at times some of those as well. Noting that our decision to use an independent investigator occurred after we'd done some preliminary work of our own together—information and the like—we were keen that this was dealt with expeditiously. Clearly, having an independent reviewer who can give it their absolute full attention assists in that regard. It was also a matter that was in the public domain. Again, having an independent reviewer we thought was preferable in that environment. We also had confidence that we could have a thorough investigation undertaken through this mechanism.

Senator FARRELL: Could the matter not have been referred to IPEA?

Ms Huxtable: Under the protocol, in respect of non-travel related work expenses there is a workflow to work through and the first instance is to determine whether there is evidence of serious misuse. That's the point at which you would refer to IPEA.

Senator FARRELL: Had the report been different and discovered some issues then it would have been referred to IPEA.

Ms Huxtable: The next step in the protocol would be to refer a matter to IPEA; that's correct.

Senator FARRELL: In estimates on Tuesday, I think the minister described this investigation as an independent, arms-length investigation that was commissioned by the Department of Finance. I understand that Mr Sukkar was previously employed by Ashurst. Were you aware of that when—

Ms Huxtable: I think there is a correction: I believe that Mr Sukkar was previously employed by the legal firm Blake Dawson Waldron.

Senator FARRELL: This is the organisation that has taken over that organisation; is it not?

Ms Huxtable: I understand that Ashurst is now the organisation but I don't know the history, to be honest.

Senator FARRELL: Law firms change their names all the time.

Ms Huxtable: Yes. I don't know the history of what occurred at that time or when it occurred.

Senator FARRELL: The company that Ashurst took over previously employed Mr Sukkar; did it not?

Ms Huxtable: I believe so, yes.

Senator FARRELL: How was Minister Sukkar's previous employer engaged to conduct the independent review? What was the procurement process for the review?

Mr De Silva: We approached the Legal Services Panel, which is run by the Attorney-General's Department. We can procure directly from that panel. That sets out the range of terms and conditions that must be followed. It also sets out the obligations for each firm in any work that they would provide under a work order. Based on an assessment of previous work that Ashurst had done for Finance, both in employment law and in assurance processes, we sought a request for quote from Ashurst. Under the panel arrangements, there's a requirement to identify and disclose any conflicts of interest that are relevant to a work order.

Ashurst undertook the processes that they were required to, and signed a work order declaring that they didn't have any conflict of interest. On that basis, we proceeded to engage them.

Ms Huxtable: I'd also note that, consequent to that, and in response to some of the media on this, Ashurst has also provided a statement with regard to the conflict-of-interest claims, which I might just read: 'Ashurst takes its professional responsibility seriously, and strives to meet the highest standards of ethics and conduct at all times. Our usual processes were followed in relation to identification of conflicts in advance of accepting instructions, and we are confident that there is no bias or conflict of any kind, personal or professional, on the part of the firm or any of the individuals who worked on this matter.'

Senator FARRELL: That's very good, but was the department aware that the legal firm they were engaging to do this investigation was the law firm that Mr Sukkar worked for before he went into parliament? Was the department—

Ms Huxtable: The issue is that—

Senator FARRELL: It's one thing for Ashurst to deal with its own conflicts of interest. What I'm asking is did the department know that the law firm that it was engaging to investigate Mr Sukkar was Mr Sukkar's own law firm?

Ms Huxtable: The point that Mr De Silva's making is, under the heads agreement and under the deed of standing offer, there is a requirement on the entity that is being engaged, and particularly in these legal environments—

Senator FARRELL: With respect, Ms Huxtable, I'm asking a very direct question: did the department know that the law firm that it was engaging to investigate Mr Sukkar was the law firm that he worked in before he came into parliament? It's a simple question. Forget about the conflicts of interest for Ashurst. What I'm asking is: did the department know that this was Mr Sukkar's law firm? Mr De Silva?

Mr De Silva: I think I'd restate what the secretary has said in terms of the obligations on Ashurst to follow all conflicts of interest.

Senator FARRELL: No, forget about any conflict of interest Ashurst might have. What I'm asking is a very simple question. Did the department know, at the time it engaged Ashurst, that this was the law firm that Mr Sukkar worked for before he came into parliament? I mean, look—the conflict is not about what's happened at Ashurst. The potential conflict is Mr Sukkar has used his own law firm to investigate him.

Ms Huxtable: That's not correct.

Senator Cormann: That is false. Mr Sukkar has not used anything.

Ms Huxtable: He's had nothing to do with it.

Senator Cormann: I was happy to let this go, because I think it's a legitimate inquiry you're pursuing, but the assertion that you've just made is false. Neither Mr Sukkar nor the government were involved in any decision-making in relation to this. The decision—

Senator FARRELL: With respect, Minister, you made the decision—

CHAIR: Senator Farrell, I think you should let the minister finish.

Senator Cormann: Again, it's a very important principle that I think you know I've scrupulously applied during my entire period as Special Minister of State. Clearly, and it's

entirely appropriate, whatever the political persuasion of a member of parliament concerned, as a member of parliament myself and as a minister, I have a clear conflict of interest—either positively or negatively, perceived or real—when it comes to these sorts of inquiries into members of parliament. There's a clear political bias issue here, which is why I'm staying completely and utterly removed from any processes. Mr Sukkar was the one who was being reviewed, so he didn't make any decisions on who was conducting that independent review.

I approach this with a completely straight bat, in an entirely consistent manner, irrespective of who is involved. There have been previous occasions, at various times, when members of parliament from other political persuasions were reviewed under the same protocol, and I scrupulously dealt with it in precisely the same way—and that is, I'm not involved, I have no visibility, I've got no line of sight. And the person being reviewed has got no involvement in making the decisions on how an independent review is being conducted. That is as it should be.

CHAIR: There are a couple of senators making submissions here. Senator Scarr has indicated a point of order and the deputy chair is seeking the call as well.

Senator SCARR: Chair, on a point of order: Senator Farrell may well not have intended to have said what he said, but what he said—which I took a note of—was 'the law firm that Mr Sukkar used'. I would ask through you, Chair, that Senator Farrell maybe withdraws that remark about Mr Sukkar 'using' Ashurst as a law firm.

CHAIR: I will give him an opportunity to do that. But, before I do that, I will go to the deputy chair.

Senator AYRES: I think the issue here is that Senator Farrell asked a number of times a very direct question of the department, and that was: is the department aware that the law firm that was engaged by the department was the previous employer of Mr Sukkar? I think he was a senior associate; I'm not sure. I've lost my words in terms of law firms. However we go around the block now, there was a very direct question, and I would like to see a very direct answer to that question. I think it's a reasonable question. I take on board the minister's observations about the way that investigations into members of parliament and senators are conducted. I think it's a legitimate line of inquiry that Senator Farrell has taken.

CHAIR: I said that.

Senator AYRES: I'm trying to establish some agreement here about how we're proceeding, but there was a very direct and, I think, reasonable question for Ms Huxtable that does require an answer.

CHAIR: Okay. Senator Farrell has an opportunity to follow up on that question if he's not satisfied with the answer he's received so far. But, before you do so, Senator Farrell, can I ask you to reflect on the statement that you made?

Senator FARRELL: I wasn't suggesting that Minister Sukkar engaged this law firm.

Senator Cormann: You did.

Senator FARRELL: Well, if it came out that way, that wasn't what I was intending to say. What I was clearly saying was: the department chose Ashurst, which was the law firm that the minister was engaged and employed by prior to coming into parliament. My very simple question—and it should be able to be answered with a yes or no answer—was: did the

department know that Ashurst was the law firm that Mr Sukkar had worked in prior to coming into parliament? It's not a hard question. The answer may be no or the answer may be yes, but it's a simple, straightforward question.

Ms Huxtable: I think the difficulty is to answer that question on behalf of the department. I think it would be better to take that on notice and review who may have been aware of that.

Senator FARRELL: Okay; if that's your answer, who made the decision to employ Ashurst? Was it you, Mr De Silva? Was it your decision?

Mr De Silva: The final decision was between MaPS, which I'm in charge of, and the Legal Branch.

Senator FARRELL: So you were part of the decision-making process that employed Ashurst to investigate Mr Sukkar?

Mr De Silva: That's correct.

Senator FARRELL: How many law firms did you have to choose from?

Mr De Silva: We can draw from any law firm. As I said prior, we had previously dealt with Ashurst on a range of employment matters and a range of assurance matters. So they had both the expertise and the skill to undertake—

Senator FARRELL: No, I'm not asking you about their qualifications. How many law firms are on the list that you have an opportunity to pick from? Is there only one law firm that you can pick from, or are there 10 or are there 100?

Mr De Silva: I'd have to take on notice the number of firms that are on the panel, but I assume that it would be a number.

Ms Huxtable: But noting also that there are a range of considerations, and I know that there was engagement around the scope of work, and who potentially might be available in the time frame that we were looking for. So, there's a range of considerations that people are—you're almost pre-considering who you could then approach on the panel.

Senator FARRELL: Do you know how many law firms are on this list?

Ms Huxtable: No, I don't. We'd have to take that on notice.

Ms Walsh: The panel that we use is one run by the—

Ms Huxtable: It's the Legal Services Panel.

Ms Walsh: Yes, exactly.

Mr de Silva: It's the Attorney-General's Department.

Senator FARRELL: Yes, but they must have a list somewhere.

Ms Huxtable: We can take on notice exactly how many there are, noting that not all law firms do this kind of work. We are looking for some specific skills in this regard.

Senator FARRELL: So, are you suggesting that Ashurst may have been the only law firm that was capable of doing this inquiry?

Ms Huxtable: No, I'm just saying that there's a range of factors that you're going to bring to a decision about who you would approach, and that's consistent with the way in which procurement occurs from a panel.

Senator FARRELL: Yes. Just to go back a step: you were one of the two groups that made the decision, Mr de Silva, to pick Ashurst. Were you directly involved in that selection process?

Mr de Silva: There was a discussion within Finance, as I said, between MaPS and their Legal and Assurance Branch, regarding potential firms. That was done over a number of days and based on the various people's views on who had experience, who had done work for us in the past and who had the skills to do this and also was available to undertake this work. That's how Ashurst was picked.

Senator FARRELL: Yes, but you made that decision, in conjunction with the other department.

Mr de Silva: The other branch.

Senator FARRELL: Yes, the other branch. You were directly involved in that.

Mr de Silva: In terms of the actual process, it might be better for us to take on notice what the various steps were and who was consulted and so on—

Senator FARRELL: It might be better—

Mr de Silva: because we're getting into specifics about how a firm is actually chosen.

Senator FARRELL: Well, why shouldn't we be told about that? What is there to hide about how that process takes place?

Ms Huxtable: I think I've already gone through that.

Ms Walsh: I don't think we're hiding anything. It's a—

Senator FARRELL: Well, you are hiding something, because I've asked a very simple question.

Ms Huxtable: And I took it on notice.

CHAIR: Senator Farrell, I ask you to reflect on the appropriateness of accusing a public servant of hiding something. I think you're really reflecting on their integrity there. You might not mean to, but—

Senator FARRELL: Alright. I'll withdraw any suggestion that you're hiding things. But will you please answer my question? Mr de Silva, when you made the decision to engage Ashurst did you know that Mr Sukkar had worked for that firm before he entered parliament?

Mr de Silva: I think I'll repeat what I said prior: I'll have to take it on notice and review any notes et cetera.

Senator AYRES: Chair, on this question, it's entirely appropriate for the secretary and other officials to say, 'We'll take this question on notice in order to establish whether the department knew.' That is, did other people in the department who may have been engaged in the process know that Mr Sukkar was a previous employee of that firm? It's not appropriate if Mr de Silva has knowledge himself about his state of knowledge at the time, or if Ms Huxtable does or if Ms Walsh does. That is a very straightforward answer that can be provided to the committee now. I want to know whether there's anybody in the room who knows. It's a very straightforward proposition. You either did know or didn't know at the time. He's been asked that question a number of times. The answer may be no, and it's then entirely appropriate still, Ms Huxtable, for you to take that question on notice to establish what I think

was the basis of your decision to take that question on notice—to properly check whether other officials in the department may have known—

Senator Cormann: On this point—

CHAIR: Minister, I can probably anticipate what you're going to say, but—

Senator Cormann: Well, I'm going to make the point. You get to ask the questions. The officers are always entitled to take a question on notice, especially and in particular to ensure that the information, the answer that is provided, is entirely accurate. If the officer has indicated to you that he wants to verify his records and remind himself of what he knew at the relevant time then he is absolutely entitled under the business-as-usual processes of this and every other Senate estimates to do so. You can ask the question but the officer is always entitled to ask for a question to be taken on notice.

Senator AYRES: But there's a consequence for that, right? That is, if the question is taken on notice and it subsequently turns out that somebody here knew the answer to that question then there will be a reflection on whether or not people have been open in front of the committee.

CHAIR: Senator Ayres, the minister is right. The committee can't dictate to witnesses—

Senator AYRES: I understand what the minister is saying, but I'm just saying that there are consequences—

CHAIR: Sorry, Senator Ayres, I am ruling on this question. It's not up to the committee or any member of the committee to insist to a witness whether they take a question on notice or not. It is their absolute right to take any questions that we ask on notice. It's our right to follow up on those questions on notice if we're unsatisfied with how they answer them. But the witness has been asked a question and, as you and Senator Farrell have noted a couple of times, he has elected to take that on notice. That really is where that matter has to lie. You can ask other follow-up questions if you like, but we can't prevent a witness from taking them on notice.

Senator FARRELL: I have some follow-up questions. Mr De Silva, you've talked about this panel process. Can you remember whether there were any other firms that were in contention for doing this particular work?

Mr De Silva: It's fair to say that we've used the panel on a range of occasions for a range of matters. As I said previously, we had a look at which firms have undertaken this kind of work and what our experience was of dealing with them in the past. All that was taken into account.

Senator FARRELL: Yes, but what I'm trying to get at is did every avenue simply point to Ashurst or were there are other firms on this panel which could have been used just as professionally and skilfully as Ashurst to do this work? Or did it end up that there was only one firm that could do the work?

Mr De Silva: As I said, there were a number of firms on the panel, and, based on all of that and based on the experience of Finance engaging with those firms, a decision was made that Ashurst had the appropriate skills. But they were also available to do the work.

Senator FARRELL: Yes. So is the answer that there was only one firm? Of all of the law firms on this panel and all of the law firms around the country, it ended up that there was only one firm who could do this work. Is that how it ended up?

Ms Huxtable: I don't think that's what Mr De Silva is saying.

Mr De Silva: No, I—

Ms Huxtable: He is saying that there were a number of firms—

Senator FARRELL: Who were the other firms that were being considered?

Senator Cormann: It's not proper—

Ms Huxtable: No, I don't think so.

Ms Walsh: Senator Farrell, we've said that we'll have a look at what other firms are on the panel which are qualified to do this kind of work. Not all the legal firms do this sort of work, as the secretary has said.

Senator FARRELL: Yes.

Ms Walsh: Finance takes very seriously our obligations in terms of how we do procurement—

Senator FARRELL: I understand.

Ms Walsh: so we would have done a thorough consideration of all available options to us and come to a decision that Ashurst was—

Senator FARRELL: Can't anybody in the room see that something smells when—

Ms Huxtable: Oh—

Senator FARRELL: Yes, you can look that way, Ms Huxtable—something smells—

Senator Cormann: Are you suggesting—

CHAIR: Order!

Senator FARRELL: Please! I didn't interrupt you. I gave you the courtesy, Senator Cormann. Something smells when the law firm that gets selected to investigate the minister is the minister's old law firm! Can't anybody see that there's something fishy about that?

Senator Cormann: What are you suggesting here? You're now reflecting on the integrity of officers of the department, and I object to that. For that accusation—

Senator FARRELL: I'm giving them the opportunity—

Senator Cormann: No, wait a minute, Senator Farrell!

CHAIR: Order!

Senator FARRELL: I'm giving them the opportunity to come up and clarify the situation—

Senator Cormann: No, you're interrupting—

CHAIR: Order! Senator Farrell, yes, you are. It's quite disorderly.

Senator Cormann: Independently, the department made relevant decisions. Neither Mr Sukkar nor I as the minister had any involvement in these decisions—

Senator FARRELL: I wasn't suggesting that any point that you had—

Senator Cormann: Yes, but you're now suggesting that, somehow, the department was motivated by anything other than conducting a proper independent review.

Senator FARRELL: No, I'm trying to get the answer!

Senator Cormann: No, you've made an accusation by using a particular form of words that, on behalf of officers in the department, I object to. They do their job professionally and they do it to the best of their ability, and they've done that in this case. This is not an easy area for departmental officials to wade through.

Senator FARRELL: I'm not saying it is.

Senator Cormann: Again, it's an entirely non-partisan statement. They're dealing here with members of parliament, and at the political level of government we have obvious conflicts. I think we should treat the departmental officials, who do the best they can in this context, with courtesy and respect.

Senator FARRELL: I never do anything else other than that, with respect, Minister.

Senator Cormann: You reflected on their motivations.

Senator FARRELL: I'm trying to express a community view here, Minister, that there's something smelly about the choice of the firm to investigate Mr Sukkar when it's his old firm.

Senator Cormann: You are alleging that that is the way the department has done this.

Senator FARRELL: Maybe I'm the only one who thinks that. But I don't think I am. I'm trying to give the department an opportunity, firstly, to tell me whether they knew that this was Mr Sukkar's old firm, and I haven't got an answer to that.

Senator Cormann: They've taken that question on notice.

Senator FARRELL: I understand you're going to take it on notice. I haven't objected to that. Secondly, can't anybody see why the community might be concerned that the investigating law firm is Mr Sukkar's own law firm? Am I the only one who can see that that's an issue here?

Ms Huxtable: The point I would reiterate is that the services were procured through the Legal Services Panel. As part of that process there are conflict of interest clauses in the head agreement which require agencies to identify and disclose any conflicts when the work order is signed. Under the agreement, Ashurst was required to undertake all reasonable and diligent inquiries in relation to any situation that may result in a conflict arising. They undertook these conflict of interest identification and disclosure processes. They signed a work order indicating that there were no conflicts of interest. They have also made statements in respect of there being no conflicts of interest.

Senator FARRELL: Thank you. I await your responses. I've got a number of questions, but given how long we've spent on this already I'll put them on notice.

CHAIR: Thank you. I know Senator Waters has questions on this same issue. Would it be okay if we go to her for now and come back to you on other matters?

Senator FARRELL: Sure.

CHAIR: Thank you.

Senator WATERS: Let's stick with the Sukkar issue. Can I clarify: was there at any point a short list of firms from that legal services panel that were under active consideration?

Ms Huxtable: I think what Mr De Silva has said is that the Legal Services Panel—they'd already gone through a process to create that panel.

Senator WATERS: Yes, I understand. Was there a further short list?

Ms Huxtable: Then there was active consideration of the firms that are on the panel who may be available to do the work, had the skills and were offering these types of services.

Senator WATERS: Was there a short list from the panel?

Ms Huxtable: That is what I'm referring to.

Senator WATERS: Is that a no? Are you saying the panel is the short list?

Ms Huxtable: No. I'm saying there is a panel. It is quite large. Individual firms that are on that panel will have, more or less, capability in these areas. There was a process of looking at the panel, looking at where capability might be, looking at—

Senator WATERS: In that process was there a short list identified that met those criteria?

Ms Huxtable: I'm describing a short-listing process.

Senator WATERS: So there was a short list?

Ms Huxtable: That is a short-listing process.

Senator WATERS: Great. Carry on.

Ms Huxtable: Ashurst were selected through that process.

Senator WATERS: Were there other candidates that met the eligibility criteria that you identified in the process?

Ms Huxtable: There were certainly other firms that had some of the skills that we were looking for. One of the issues was around the availability to be able to do the work, because we were keen for this to be dealt with expeditiously. They had the person involved. The partner who was going to undertake the review was available to undertake the review in the time. We knew that person to be someone who we had worked with before who had the skills that we were looking for and had dealt with those complex matters before.

Senator WATERS: So you're saying a few firms had the skills but there was really just this one that was also available at the time that you needed?

Ms Huxtable: The right mix of skills and availability.

Senator WATERS: You've mentioned your conflict process. You've said you sought a quote from them, they filled out the work order and said they had no conflict. Did anybody check that?

Ms Huxtable: You would appreciate that when we are engaging legal firms we are not in the position to go through all the work that they may have conducted in the past. We wouldn't have visibility of that. The process of assuring ourselves around conflicts of interest is through that process where we have requirements on those who come forward for this work that they assure themselves. Ashurst has noted since and publicly that they went through those processes to identify conflicts. They signed off on there being no conflicts.

Senator WATERS: So you didn't check that? You just accepted that?

Ms Huxtable: It is something that I don't think we would have a capacity to check as a matter of course, because we just won't have visibility of all the work that firms have done in the past.

Senator WATERS: But you would have visibility of one of your own ministers of the Crown. Did anyone Google search Mr Sukkar or do any search on his employment history?

Ms Huxtable: I can probably only go back to the evidence we've already provided. I can take on notice what knowledge we had about Mr Sukkar previously being employed with Blake Dawson Waldron.

Senator WATERS: So you'll take that on notice. When did anyone in the department become aware that Mr Sukkar had previously been employed by the firm that renamed itself Ashurst?

Ms Huxtable: That would be part of what I've already taken on notice, I believe.

Senator WATERS: At the point that you became aware of it, what additional protections were put in place to ensure the independence of the investigation?

Ms Huxtable: I think the premise of your question is that there is a conflict. What I'm saying to you is that Ashurst have assured themselves and us that there is no conflict. In their statement, they have said—

Senator WATERS: Do you accept that there is a perception of conflict?

Ms Huxtable: I think there is no conflict on the basis of the information that Ashurst has provided to us.

Senator WATERS: Do you think there is a perception of conflict?

Ms Huxtable: I don't believe so. I accept the processes as set out that provide assurance around conflict of interest, noting also in that regard, and I think this is also on the public record, that the person who undertook this work—I might need to find the relevant piece of information—was not engaged by the firm until, I think, 2018.

Mr De Silva: That's correct.

Ms Huxtable: I can't find the relevant paper.

Mr De Silva: The person has not had any prior contact or dealings, on a professional or personal basis, with anyone who was subject to the review process.

Senator WATERS: What action did the department take when noticing the article published by journalist David Crowe—I think the first article was 15 October and then there was the subsequent one a week later—on 15 October that revealed that in fact Mr Sukkar's previous employer was now conducting the so-called independent investigation?

Ms Huxtable: We had received a media inquiry in advance of that article and we had provided a response in that regard, which was reflected in the article. I would note that the review had been completed and the notice on our website had already been completed at that point.

Senator WATERS: What action did you take once you saw the article in print?

Ms Huxtable: There was no action to take.

Senator WATERS: No-one asked you for a brief or an explanation? Was there any request for any action to be taken by the department?

Ms Huxtable: No.

Senator WATERS: Did anyone else see a problem with the perception of a conflict of interest? Was there genuinely no concern?

Ms Huxtable: I think I've been through the elements of the engagement that ensured that there was no conflict.

Senator WATERS: We're talking now about the perception of conflict. I accept that you don't think there was an actual conflict, but I'm struggling to share your view that there's not at the very least a perception of conflict and that no-one rang you and asked: 'What on earth? What are we doing about this situation?' There was no contact from either your minister or—

Senator Cormann: I have to answer this now. When you say 'contact by your minister', let me say to you what I said to Senator Farrell.

Senator WATERS: You wanted to stay out of it.

Senator Cormann: When it comes to my role as Special Minister of State, I have both a real and a perceived conflict of interest. When it comes to investigations of this kind into any member of parliament, whatever their political persuasion, I have both a real and a perceived conflict of interest, which is why I completely absent myself from any part of that process. It is 100 per cent conducted at arm's length from me without any involvement from me or my office. That is as I believe it should be.

Senator WATERS: I understand—you want to stay as far away from it as possible, precisely because there's a perception of a conflict of interest.

Senator Cormann: No, I—

CHAIR: Order, Senator Waters!

Senator WATERS: I'll withdraw, if that will calm the farm.

CHAIR: It's really not helpful. Come on.

Senator Cormann: What would you think if I were directly involved in these sorts of investigations into Greens senators or Labor senators? It would be entirely inappropriate either in the direction towards the competition or in the direction of my political allies. I recognise that I am completely and utterly conflicted in real terms and in perceived terms, which is why I am completely not involved in any way, shape or form—for good and proper reasons. So I reject the implied assertion that was in your observation there.

Senator WATERS: I'm still reeling from the suggestion that you can't see that there's at least a perception of a conflict in the engagement of Mr Sukkar to investigate him for breaches of legislation.

Ms Huxtable: I note that's not a question, but you have reflected on an answer that I gave. I would note, in that regard, that we engaged Ashurst. Going through the Legal Services Panel and going through the process in respect of conflicts that are set out in that legal services panel, there has been no engagement, as the minister says, of Mr Sukkar and Mr Andrews apart from their voluntary contributions to the independent investigation as it has gone forward. This engagement process has all has been managed within the department at arms-length and independently from government.

Senator WATERS: Can I move on now to your oversight of the independent investigation. I heard the earlier exchange about the two-stage process, the initial investigation and then the decision to engage a so-called independent investigator. Once it was given to Ashurst to conduct that investigation, what oversight did the department have of the scope of the investigations undertaken? Were you aware of, for example, the documents that the investigator was in possession of? Did you know what that person had upon which they were basing their decision?

Ms Huxtable: I might pass to Mr De Silva on that.

Mr De Silva: We were aware, in terms of the scope, of what was determined by Ashurst regarding the conduct of each of the two reviews that were undertaken. We were aware of what request for information and documentation had been made to both Mr Sukkar and Mr Andrews and what information was provided back.

Senator WATERS: Did you convey to the independent investigator that a staff member had sought your advice on how to provide information on the matter—that exchange you had before where the MaPS email was provided, but then you didn't receive any correspondence to that email address and you understood that the investigator didn't receive it either? My question is: did you let the independent investigator know that that staff person had reached out, seeking information?

Mr De Silva: I'll take on notice what information about that was shared with the independent reviewer. But, as we said to Senator Farrell, there was an email that was sent in to the Department of Finance. We had responded to that person, saying, 'If there is any information regarding any alleged misuse of work expenses, they could provide it to this email address.' We sent them that email address, and no information was provided to that email address.

Senator WATERS: I understand that.

Mr De Silva: There was nothing to pass on, because nothing came in.

Senator WATERS: Yes, but what I'm asking is: did you pass on to the investigator that that person had sought direction on where to provide information, even though they didn't ultimately provide it? Did you convey to the investigator that a staff member had—

Mr De Silva: I'll need to take on notice whether we passed on to the independent reviewer that there was an email that came in, but I do note that given that no information was passed to us there was nothing to pass on.

Senator WATERS: Yes, I understand, but it's the expression of interest that I am interested in. Did the investigator know that there'd been an expression of interest?

Mr De Silva: As I said, I'll take on notice as to whether they were advised of that.

Senator WATERS: The reason I am asking is it's not clear to me—and I am seeking your advice here—on whether or not the investigator did in fact seek information directly from staff. I understand that information was sought through the two MPs and I understand that it can only be provided on a voluntary basis because we don't have a federal corruption watchdog which would solve all of these problems, I might add—and that's a whole other story, even though a bill passed the Senate more than a year ago in my name with the support of the Senate that's been laying in abeyance on the House of Reps sheet ever since. Given the

limited powers that you've got, are you aware whether the independent investigator proactively asked staff of the two MPs?

Mr De Silva: I think we've answered a similar question from Senator Farrell before in terms of we'll take on notice any of the specifics regarding how the review process was conducted.

Senator WATERS: Alright. You really can't remember?

Ms Huxtable: Sorry, Mr De Silva—also it may have been before you came into the room Senator Waters, but—

Senator WATERS: I was listening.

Ms Huxtable: I did say that relevant material was sought and was provided, but we can take on notice—

Senator WATERS: 'Through the MPs,' you said. I wrote down your words, although by all means clarify them if I jotted them down wrong. You said 'through the MPs the information was provided'.

Ms Huxtable: I'd want to go back and just remind myself exactly.

Senator WATERS: I'd like that clarity also, because I'm interested in whether the staff ever got the chance to directly provide information or did everything have to go through their bosses, which is probably a bit of a disincentive for them revealing any uncomfortable situations if there were any uncomfortable situations.

Senator SCARR: Very gratuitous, isn't it?

CHAIR: It is.

Senator WATERS: You've taken on notice whether or not the staff were asked by the independent investigator. Can I confirm that the department itself didn't proactively ask the staff either. You waited for them to email you, and then you said here's an email that you can reply to us on. Was there any proactive approach to the staff by the department?

Mr De Silva: The review was conducted by the independent reviewer, so it wasn't for us to be contacting—

Senator WATERS: In your stage 1 where you did your initial work, did you proactively reach out to staff?

Mr De Silva: Our first stage was actually to examine all of the documents that we had. As I said to Senator Farrell prior, in the normal process we would pull together all of the records to do with office expenses if they were relevant, any staff records, et cetera. So we started to compile all that, and then we engaged an independent review person to conduct the reviews into both Mr Andrews and Mr Sukkar, and we provided that information to them, and then came back to us

Senator WATERS: So you didn't proactively reach out to staff?

Mr De Silva: as to how they would like to proceed.

Senator WATERS: So in the process you've outlined, you didn't proactively reach out to the staff?

Mr De Silva: It was a matter for the reviewer, as I have said prior.

Senator WATERS: And you've taken on notice whether they did that—thank you. You mentioned earlier that Finance initially had a phone conversation with someone in the Prime Minister's office or someone in PM&C.

Ms Huxtable: No, the Prime Minister's department.

Mr De Silva: No, the Prime Minister's department.

Senator WATERS: So you gave someone in PM&C a courtesy call to let them know that you would be conducting a review in accordance with the protocol. In that conversation was any direction provided to you?

Mr De Silva: I didn't make the phone call, but I don't believe so. It was literally just a courtesy call to advise that we were conducting a review. They would not have given any direction to us because it's the protocol that we operate under. We were just advising them that we were conducting a review in accordance with that protocol. It was actually just a courtesy to let them know.

Senator WATERS: Who made that phone call, Mr De Silva, if it wasn't you?

Mr De Silva: It was Ms Sutton.

Ms Huxtable: The band 1, the assistant secretary in this area.

Senator WATERS: I am not sure if that person is here, but can I ask that you take on notice to check for any file note of that conversation and to check whether any instruction was provided by the PM&C?

Mr De Silva: I am happy to take it on—

Ms Huxtable: No instruction would have been provided.

Mr De Silva: But no instruction was provided.

Senator WATERS: You know for sure?

Mr De Silva: Ms Sutton advised me that she'd contacted PM&C to let them know, and that was it. Any suggestion that there was instruction is incorrect.

Ms Huxtable: This is at a relatively junior level in the department.

Senator WATERS: Were there any subsequent contacts with PM&C, or the PMO for that matter, relating to this matter?

Ms Huxtable: We would not have contact with the PMO in any circumstances.

Mr De Silva: And with PM&C we advised them when it was concluded.

Senator WATERS: I thought you said earlier that you didn't advise them it that it was concluded. Can you tell me when—

Senator Cormann: The department issued a public statement that was published.

Mr De Silva: So there was a statement that was issued on the 13th, and I think there was a follow-up conversation a week later.

Senator WATERS: Can you tell me a bit more about that follow-up conversation. What was—

Senator Cormann: We've been through this.

Senator WATERS: No we haven't, actually; this is new information.

Senator Cormann: Senator Farrell went through this in forensic detail, as only Senator Farrell can.

CHAIR: In any case, there are two more minutes remaining.

Senator WATERS: I'm not sure he got any answers, in all honesty—

CHAIR: Senator Waters, order!

Senator WATERS: Thank you, I've got one follow-up, and then one final question. What was the date of that phone call?

Mr De Silva: I need to take on notice when that was, but I believe it was probably about a week after.

Senator WATERS: A week after the issuing of the report?

Mr De Silva: I'll just need to double-check.

Senator WATERS: Thank you. Lastly, are you aware whether the PM plans to undertake any review of the report, as to whether Minister Sukkar's behaviour was in breach of the ministerial standards?

Ms Walsh: Senator, I think that question is better directed to the Prime Minister's department. But I also think there were some questions around that at the—

Senator WATERS: Yes, I asked those questions. But I'm interested in whether this department is aware of whether or not—

Ms Huxtable: We are not aware, and we would not be aware.

Senator WATERS: Just to conclude, you didn't check Ashurst's assurance that they didn't have a conflict. You didn't check whether or not they proactively sought information from staff—

Ms Walsh: Can I just—

Ms Huxtable: We took that on notice, Senator. They conducted the review, not us, and we took on notice their engagement with staff.

Senator WATERS: Alright. And you yourself noted that you've got no powers to compel documents and that they're provided on a voluntary basis. So, Minister, when are we going to see a federal ICAC which has powers to compel documents and can get to the bottom of these sorts of issues?

Senator Cormann: I think you asked me that same question on Tuesday, and the answer is the same: as soon as we're ready. The answer hasn't changed in two days.

Senator WATERS: Even though it's been sitting in the Attorney's inbox since December 2019?

Senator Cormann: The Attorney's responsible for progressing that piece of legislation, and I'm very confident that he will do so at the earliest opportunity.

Senator WATERS: The talking points say it's not a priority.

Senator Cormann: I've answered the question.

Senator WATERS: Thanks, Chair.

CHAIR: Thank you. Senator Scarr.

Senator SCARR: Ms Huxtable, many years ago, I worked for a firm called Feez Ruthning. That has gone through a number of permutations and combinations since that point in time, as many law firms have over the last 20 years, in becoming national firms and global firms. Do you know which law firm Feez Ruthning eventually ended up becoming a part of?

Ms Huxtable: I can't say I do.

Senator SCARR: I can advise you it's now a firm called Allens. Is Allens a firm which occasionally the Department of Finance uses?

Ms Huxtable: I'd probably have to take that on notice.

Senator SCARR: You don't have to take it on notice. I suspect if I were looking to engage a law firm—

Ms Huxtable: It's not top of mind.

Senator SCARR: in this area, they would be one of the ones I'd look at. And I'd also look at Ashurst, actually, because I've used them in the past in employment matters and they're an extremely professional, competent firm. Do you know how many employees and partners they have in the firm?

Ms Huxtable: Allens or Ashurst?

Senator SCARR: Ashurst. We're on Ashurst.

Ms Huxtable: No, I don't.

Senator SCARR: Their own website—and I've just checked it—says they've got approximately 1,600 partners and employees across 11 time zones. So, from your perspective, would it be reasonable for one to then describe them as a mega law firm?

Ms Huxtable: They certainly sound like they're a large law firm.

Senator SCARR: Perhaps whilst we're putting this issue in context, one end of the spectrum would perhaps be a mega law firm with 1,600 partners and employees in 11 different time zones all over the world. At the other end of the spectrum might be a small suburban firm of, say, four or five partners, which has been reasonably stable over time. Is that a reasonable observation—that there is a difference perhaps in terms of the internal mechanics of a law firm that has 1,600 employees and partners, as opposed to a law firm with, maybe, three or four partners and employees?

Ms Huxtable: I expect so.

Senator SCARR: I expect so, too. I'd like to walk through the protocol with respect to how the department is to deal with these matters. I must say that I'm no expert on this. I printed it out with the help of the assistant secretary, as these questions were launched. I'd like to go through each of the steps and get in my own mind how this process worked. The first step, the initial step, is consideration of the matter by the Department of Finance. That first step—I'll quote from a quote:

1.1 When a complaint is made, or the Department becomes aware of evidence which suggests that a senator or member, or a staff member, has misused a non-travel related work expense, the Department will initially assess and examine its internal records to determine whether the potential misuse is credible, having regard to:

And then there is a list of matters.

Then, 1.2 says:

1.2 If the potential misuse is found to not be credible, the Department will take no further action.

If the matter is credible, it then refers you down to step 2. So, is it correct to say that it was within the ambit of this step 1 that the department made a decision that, in relation to this matter—and maybe I'm putting this question to Mr De Silva—you should brief out this matter or investigation to an external law firm? Is that correct? That was part of step 1?

Mr De Silva: It's correct that we would examine all the internal information and records that we hold. It would not be correct to say that we engaged Ashurst before there was a determination as to whether something was credible or not. It was a fairly large and complex range of documentations, so all that information was provided to Ashurst at that point in time.

Senator SCARR: I understand. So the department hadn't completed the step 1 process. The step 1 process was in train from the time when the department was sent the initial referral or became aware of the circumstances, and then partway through that process, under step 1, a determination was made, and I think Ms Huxtable the three reasons which you gave as to the reasons for referring to an external law firm were the need for the matter to be investigated expeditiously, which is always a good thing when these sort of allegations are flying around; secondly, the allegations were in the public domain, so there were people's reputations at stake; and, third, a desire to actually give confidence in relation to the conduct of the investigation. Were they the three reasons that a decision was made to refer it to an external law firm?

Ms Huxtable: I think that pretty much sums up—Mr De Silva can jump in—

Senator SCARR: Mr De Silva, is that an appropriate summary?

Mr De Silva: I think it's an appropriate one. As I said, it was around the public interest. It was about being expeditious, and it was around the volume of documentation that needed to be assessed.

Senator SCARR: Once that determination was made, you then had a process you had to engage in, in terms of the actual appointment of a particular law firm. You've given a summary with respect to the mechanics of that appointment and how you make use of the law firms with the particular expertise on the Attorney-General's Department's legal panel. I'm not going to ask you further questions in relation to that process, because you've taken a number of questions on notice in that regard. But the one question I did want to ask you, and just to place this on the record so there's absolutely no doubt: Mr Sukkar was not involved in any way with the decision that the matter should be referred to an external law firm?

Ms Huxtable: Absolutely not.

Mr De Silva: That's correct.

Senator SCARR: Secondly—and this naturally flows from your answer to question one—for the record could you confirm that Mr Sukkar was in no way involved in the determination as to whether or not Ashurst was appointed to conduct this matter, or any other firm was appointed. Is that correct?

Ms Huxtable: Correct.

Mr De Silva: That's correct.

Senator SCARR: Then, under the process—and as I said I've personally engaged Ashurst in a professional capacity in a previous life, as general counsel on matters, and my experience certainly was that these large law firms have to go through their internal conflict-checking process before they'll formally accept instructions. As part of that process, Mr De Silva, you were saying that before they're appointed or in the course of settling their terms of engagement before they can formally accept instructions and get on and deal with the work, they have to actually confirm that they have no conflict of interest. Is that correct?

Mr De Silva: That's correct.

Senator SCARR: Ms Huxtable, I noted you referred to an announcement or a statement that was made by Ashurst. I can clearly understand how, in these circumstances, Ashurst, which in my experience is an extremely honourable and professional firm of great standing, would be quick to come out and clarify these matters in the public domain. I took notes from the actual announcement, which you quoted from, Ms Huxtable. The words I took down read: Ashurst said they had conducted their conflict searches and 'there was no bias or conflict of any kind on behalf of the firm or the individual engaged in relation to conducting the work'. Is that correct?

Ms Huxtable: Just to reiterate their statement, they said—and this was provided in response to a media inquiry: 'Our usual processes were followed in relation to identification of conflicts, in advance of accepting instructions, and we are confident that there is no bias or conflict of any kind, personal or professional, on the part of the firm or any of the individuals who worked on this matter.'

Senator SCARR: So they made it clear it wasn't just in relation to the firm, but it was also in relation to any individuals involved in this matter?

Ms Huxtable: Correct.

Senator SCARR: As I come to my earlier observation, this is in the context of a firm that has somewhere in the region of 1,600 employees and partners in 11 different time zones. That's not really a question—I'll move on to the next question. Ms Huxtable, you made the point, and I'll refer to the announcement that was put out by the department: 'Minister Sukkar participated voluntarily and provided written responses and other relevant documentation.' So it's correct to say that there was no legal obligation on Minister Sukkar to provide this voluntary assistance. It was simply what he wanted to do in order to make sure that the investigation had the information from his perspective that it needed to have to conduct its inquiry. Is that correct?

Ms Huxtable: That's correct.

Senator SCARR: And at the conclusion of that independent investigation by Ashurst, a globally recognised firm with approximately 1,600 employees and partners in 11 different time zones, the media announcement put out by the Department of Finance states:

The review concluded that:

- further investigation of the matters within the scope of the review is not warranted as there is not a sufficient basis to form a view that there was serious misuse of Commonwealth resources under the MOP(S) Act or the PBR Act
- there is no basis to refer the matter to the Independent Parliamentary Expenses Authority under the Protocol because there is no evidence of serious misuse of work expenses.

I just wanted to confirm that that was the particular finding that Ashurst came to after having conducted the independent review. Is that correct?

Ms Huxtable: That's correct. That is their finding.

Senator SCARR: Is it correct to say that that finding, or the ambit of that finding, in particular the reference to those words, 'there is not a sufficient basis to form a view that there was serious misuse of Commonwealth resources'—you can track those words back to the protocol that the Department of Finance has for handling these matters. That therefore means under step 2, Mr De Silva. So, you've had the investigation—that's been completed. I've read out the findings and there's reference to those words, 'There is not a sufficient basis to form a view that there was serious misuse of Commonwealth resources.' That tracks the words, in essence, that are used under section 2 of the protocol. Is that correct?

Mr De Silva: Yes. It's under 3.1. So, if there's no serious misuse, there's no basis to refer on to IPEA.

Senator SCARR: And that's an end of the matter?

Ms Huxtable: Yes. Effectively, it is actually under that protocol, if you've got it in front of you. It's 1.2:

If the potential misuse is found to not be credible, the Department will take no further action. If the matter is credible, the Department will take the further action described in clauses 2 and 3 below.

Senator SCARR: Yes, I see what you mean. So, really, once you received the findings, Mr De Silva, that actually ended the investigation or consideration of the matter, if you like, by the Department of Finance under section 1 of the protocol. Is that correct?

Ms Huxtable: Actually, I might have slightly confused you, so I might go to Mr De Silva. I think I was a little bit ahead of where you had got to in that regard.

Senator SCARR: I think you were.

Ms Huxtable: So apologies for that.

Senator SCARR: That's probably why you're in the position you're in—thinking ahead!

Ms Huxtable: I've been here for too long!

Senator SCARR: But, Mr De Silva, that was essentially an end of the investigation? That was the end of the consideration of the matter by the Department of Finance under step 1 once you received the findings from the independent investigator—is that correct?

Mr De Silva: Yes. So the conclusion was that there was no serious misuse and that there's no basis to refer on to IPEA. So that's the conclusion.

Senator SCARR: So from your perspective, Mr De Silva, this matter, from the time the original evidence or allegations came to the attention of the department, was conducted entirely in accordance with the protocol for the handling of potential misuse of non-travel-related work expenses by the Department of Finance. Is that correct?

Mr De Silva: It's closed now, yes.

Senator SCARR: So the protocol was followed and the matter is closed. Is that correct?

Mr De Silva: Correct.

Senator SCARR: Thank you.

CHAIR: Thank you, Senator Scarr. Senator Farrell, I'll return the call to you. For the management of the committee's time, we were scheduled to go to a break at 3.45 and then return with Senator Seselja and his part of the Department of Finance at four. We have to get through the remainder of MaPS and IPEA in outcome 3. How are you going for time?

Senator FARRELL: In half an hour?

CHAIR: Yes.

Senator FARRELL: I think it might be a bit longer than that, but I'll do my best.

CHAIR: Okay. I encourage you to do so.

Senator FARRELL: I know Senator Cormann has had a very, very long stint, as have the other officials. Thank you, Chair. I refer to media reports regarding three Department of Finance employees who've been charged with fraud after they allegedly received kickbacks by using their inside knowledge for awarding IT contracts. An article by that terrific journalist Rosie Lewis in *The Australian* on Tuesday reports information from a departmental whistleblower that the Parliamentary Expenses Management System was one of the programs worked on by at least two of these staff. This is an expenses system that parliamentarians use to submit all of their expenses claims. Were these three staff working on the expenses management system that includes the personal details of parliamentarians, their families and staff?

Ms Walsh: Sorry, Senator Farrell, I was just finding my—

Senator FARRELL: Would you like me to pass you—

Ms Walsh: Thank you. That would be good.

Senator FARRELL: The whole thing?

Ms Walsh: No, just—

Ms Huxtable: Can I just note also, before Ms Walsh answers, that we have taken a variety of questions earlier in the day in regard to the AFP investigation, and one of the points that I made in that regard is that this is an active investigation and charges have been laid and it is in the court process.

Senator FARRELL: Yes, and I won't be asking any questions about the court case.

Ms Huxtable: I would just say that we have to be very cautious about what we say, and also in respect of the activities that the three individuals may have been involved in, for that reason. We have sought advice from the AFP in that regard to inform us today.

Senator FARRELL: Does that mean you won't answer this question that I've just asked? I appreciate, Ms Walsh, that you didn't hear the question. I don't intend to go into any matters in respect of the court proceedings. I don't want to prejudice those matters in any way. But you can appreciate that the PEM system that we're dealing with is the system that the parliamentarians themselves use, and I think parliamentarians are entitled to some answers. To the best of your ability, I'd like to ask you those questions and you can answer them for me. Did you hear my introduction?

Ms Walsh: Yes, I did.

Senator FARRELL: Were these three staff working on the expenses management system that includes the personal details of parliamentarians, their families and staff?

Ms Walsh: I'm going to refer to the secretary's comments just there, and I will provide you as much information as I can in the context of not risking any prejudice of the court proceedings that are underway. What I can say to you is that PEMS is authorised in accordance with the Australian government information security manual. It also meets the requirements of the Australian privacy principles. And we—Finance—undertake regular assessments of PEMS's security compliance against that manual and the principles. I can also say that at the time the AFP charges were laid, an independent assessment was undertaken of PEMS and there was no evidence that security or privacy requirements had been breached. I can, if it's useful—

Senator FARRELL: My question was: were any of these three staff working on PEMS?

Ms Walsh: And this is where the line is that I want to draw in terms of an active investigation and court proceedings.

Senator FARRELL: You're talking about what you believe to be the security of the system. I'm talking about whether any of these staff were working on the PEM system. Are you saying you can't answer that question?

Ms Walsh: If it was getting that specific, I would want to take it on notice and ask for further advice to ensure that I wasn't going anywhere near the investigation boundaries that we're talking about.

Ms Huxtable: Senator, I think we can say, to give you assurance, that the charges that have been laid against these individuals relate to directing information technology contracts through preferred suppliers. They do not relate to access or misuse of IT systems.

Senator FARRELL: Well, in that case, there can't be any conflict with the sub judge rules, so you should be free to answer my question.

Ms Huxtable: I don't think that's correct, because we have to consider—

Senator FARRELL: It's got to be one or the other, Ms Huxtable, either—

Ms Huxtable: I am ultra-cautious in this environment, because we have a very live court case and there'll be many people who are watching this who may have an interest in that case, and I think we have to be very careful as to what we say.

Senator FARRELL: I also took some advice in respect of this matter from the Clerk, Richard Pye, because I thought the issue of sub judge might come up. I'm happy to provide his communication to me, if that—

Ms Huxtable: Sorry, who was that?

Senator FARRELL: The Clerk. We anticipated that you might raise the sub judge issue. We thought the questions were sufficiently important to get a bit of advice on it ourselves. He makes the point that, so long as we assure the committee that we don't intend to canvass the matters that relate to the prosecution, we should be able to ask the questions. You should, therefore, be able to answer them subject to taking them on notice.

Ms Walsh: That's the key.

Ms Huxtable: I think we have taken them on notice.

Senator Cormann: We can always take them on notice to make sure that we respect the appropriate boundaries.

Senator FARRELL: Okay.

Senator Cormann: We do want to be helpful, but we also don't want to prejudice the outcome.

Senator FARRELL: There hasn't been much evidence of that today, Minister, with due respect.

CHAIR: I think that's a bit unfair, Senator. These are pretty accepted, reasonable grounds for caution. I certainly don't want to restrict your questions.

Senator FARRELL: Good, then I'll keep going.

CHAIR: Please do.

Senator FARRELL: These staff have been charged with fraud. Do they have access to the personal details of parliamentarians, their staff and parliamentarians' families?

Ms Walsh: Again, I'm not going to answer that question, but I'm happy to take it on notice.

Senator FARRELL: Thank you.

Ms Walsh: What I would like to do though, is refer back to my original response to you: that we have done the independent assessment, and we have no evidence that there's been any breach of security requirements.

Senator FARRELL: Alright. That does relate to my next question. We understand that these staff did have access to PEMS. What steps did you take to ensure that there was no breach of security in respect of these matters?

Ms Walsh: The responses to that question were canvassed earlier on in the proceedings.

Senator FARRELL: Can you repeat them.

Ms Walsh: We said that we put in place arrangements to assure ourselves that our security and the issues of confidentiality were being managed.

Senator FARRELL: Mr Sheridan has turned up. Does he have some helpful information for us in this regard?

Ms Walsh: Mr Sheridan can provide you assurances around the PEMS system—or PEM system, to be correct.

Mr Sheridan: The PEM system is a SAP system. The SAP system has extensive logging and monitoring, and the ability to deploy particular tools that can tell us almost everything—indeed, everything about what happens on the system. As a consequence of that, when we did an independent check of its security, we were able to check that no information had been exfiltrated, that there were no issues with the system's security other than arranging the right protocols on occasion in the sense of continuous improvement of system security that we would expect. And there was no evidence of issues in the system's security sense. It's useful to recognise that developers in the system don't have access to live operational data. That operational data—the live data provided by the clients of the system—isn't available in development. Developers use dummy data. They use—

Senator FARRELL: Is that what these fellows were working on?

Ms Huxtable: We've taken that on notice. Mr Sheridan is making some general points around the security of the PEM system and the environment in which PEMS operates to give

you assurance in respect of the tenor of the questions that you're asking, rather than going into the specifics.

Senator FARRELL: What Mr Sheridan's saying sounds very reassuring. I am just seeking to clarify that these people, if they were working on this system, were working on dummy information.

Ms Huxtable: We are seeking to provide you with assurance in the broad without getting into that specific issue, which we've taken on notice. But I think Mr Sheridan can continue to provide that assurance.

Senator FARRELL: Yes. He's doing a very good job.

Ms Huxtable: He always does.

Mr Sheridan: There is also nonsensitive data in the system. Access by individuals is limited to that which they require to do their work. So there isn't the opportunity for them to browse through the system collecting information in that manner. The system is, as was said, regularly authorised in accordance with the information security manual. Most recently, that was done in August of this year. When we are doing that, we're checking that it meets the 1,000-odd controls, or the applicable ones, that are in the information security manual, and we're ensuring that we are minimising risk around the way the system is configured and used.

Senator FARRELL: Thank you for that. When did the department first become aware of the potential fraudulent activity?

Ms Walsh: Again, we talked about that issue earlier this morning.

Senator FARRELL: I'm sorry, I wasn't here.

Ms Walsh: I missed the question.

Senator FARRELL: When did the department first become aware of the potentially fraudulent activity?

Ms Huxtable: Yes, we did go through all that in quite a lot of detail this morning. We received a public interest declaration and a disclosure, a PID. Following the consideration of that PID through the normal process in the department, matters were referred to the AFP in July 2019. So in the period prior to July 2019, we took on notice exactly what date we received that original information. We went through our own independent review processes and referred matters to the AFP in July 2019. On 10 June 2020, these charges were laid by the AFP.

Senator FARRELL: Sorry, what date was that?

Ms Huxtable: When the charges were laid?

Senator FARRELL: Yes.

Ms Huxtable: It was 10 June 2020.

Mr Scott: That's correct. We also flagged this morning, again, because of the sensitive nature of what we are talking about, we were quite broad in how we described it. Once we referred the issues, as the secretary said, to the AFP, we were advised there was substantial evidence to suggest a proper investigation by the appropriate authorities should be undertaken. Once we were advised by the AFP that there were significant issues, we then undertook some steps to mitigate risks while the AFP continued that investigation. We were

then advised in May 2020 of the likelihood of further inquiries and the execution of search warrants. At that point, we also prepared further steps to take as part of that process. So over the course of the investigation, as the situation evolved, we took preventive steps on the way through.

Senator FARRELL: Did you inform the minister at any point in time in this process?

Ms Huxtable: I informed the minister the night before the charges were laid, when I had been advised by the AFP that it was imminent that charges would be laid.

Senator FARRELL: So that was 9 June?

Ms Huxtable: Yes.

Senator FARRELL: Were staff stood down or sacked?

Mr Scott: Once the search warrants were executed and on the same day we were informed that charges would be laid, the APS employee was suspended and the two contractors' contracts were terminated.

Senator FARRELL: Sorry, two contracts were terminated?

Mr Scott: It was two contractors. There were three individuals. One was an APS employee and two were contractors.

Senator FARRELL: Has the APS employee been suspended with or without pay?

Mr Scott: They are currently suspended without pay.

Senator FARRELL: Are they still working in any other areas of the Public Service?

Mr Scott: No, they are not.

Senator FARRELL: Have these people been replaced?

Mr Scott: The nature of the work the contractors was doing is ongoing, so I understand that—

Senator FARRELL: Somebody else will be doing that work?

Mr Scott: There have been replacement arrangements put in place.

Senator FARRELL: I note that \$7.8 million in assets have been frozen. What is the value of the alleged fraud?

Mr Scott: We have not been advised of the possible scope of the fraud. Certainly, the value of the contracts is less than that, so this goes to the AFP's criminal asset confiscation task force and the way they go about attributing those assets, which could be the subject of criminal proceeds.

Senator FARRELL: It has been reported that a condition of the bail is that they can't remotely log into the Finance IT system. Have they had their access blocked or been forced to return their hardware?

Mr Scott: Yes. All steps have been taken to prevent access to buildings and systems, and we have strong guidance in place for staff around any contact.

Senator FARRELL: What access did these employees have to the personal information of parliamentarians and staff that is contained in PEMS?

Ms Walsh: I think we might have answered that question previously with Mr Sheridan's general comments. Our commitment is to take the question on notice.

Senator FARRELL: Mr Sheridan might have covered this part of it, but I will ask it anyway. Do you have any concerns that personal information has been accessed by these employees?

Ms Walsh: I think Mr Sheridan's previous response goes to that.

Senator FARRELL: Mr De Silva will remember this. I had a couple of concerns about the two-factor authentication issue, which was subsequently removed. Have any of those issues been aspects that these three individuals have been involved in? Have they been involved in that? Mr De Silva, I am sure you can remember—

Ms Huxtable: I think we can all remember.

Senator FARRELL: Yes. Is there an indication there was a problem with this system because of the activities of these three individuals, or is that completely unrelated?

Ms Huxtable: I think Mr Sheridan can respond to that.

Mr Sheridan: The two-factor authentication system retains its integrity. There is no suggestion that there is any difficulty with it or that it has been not working in any way.

Ms Huxtable: But I think to step back from—at the start of that, Mr Sheridan, the two-factor authentication was an important feature of ensuring security of the system. That has clearly been an objective from the outset, that there is appropriate security in place to ensure that PEMS operates in accordance with the Australian Government Information Security Manual. Two-factor authentication is an element of that.

Mr Sheridan: It means essentially that it's not sufficient to have the password only of the user. You need the other factor as well in order to access the system.

Ms Huxtable: All that work has occurred quite independently of the other matters that we are discussing, for a very good and proper reason.

Senator FARRELL: We were told there were two contractors, whose contract was terminated as a result of this fraud inquiry. Were these contractors working on the system and the two-factor authentication? Was that part of their job?

Ms Walsh: I think that would be within the scope of the questions you've asked that we will take on notice.

Senator FARRELL: I guess that was a bit more specific than any of the other questions I asked you so far. In answer to question on notice F059 from the March estimates, you stated that the full implementation of PEMS has been delayed and that the COVID-19 pandemic has severely restricted the availability of users to undertake critical user acceptance testing of new functionality. What consultation with the user acceptance group did you undertake about their availability to undertake testing?

Ms Walsh: I think the best thing to do is to take that on notice to give you the detail that you're asking for. We want to be helpful, but I want to make sure that we give you the right information.

Senator FARRELL: I understand. In the portfolio budget statement it says that PEMS allows parliamentarians and their staff to access PEMS from any computer or mobile device, lodge, monitor and certify expenses claimed anywhere, any time. Given PEMS's accessibility, why would COVID-19 and working from home prevent users from testing new functions?

Mr Sheridan: The user acceptance testing is done in two stages. We do internal user acceptance testing with the business staff in MaPS and IPEA to make sure that the functions that they are using are working and that the functions that we are expecting the external users—parliamentarians and their staff—to be using are working. Then, when we are ready to external user access testing, we put in place a range of support mechanisms, actually in Parliament House, to take people through steps to make sure they understood what is required and to go through scripted testing to make sure that we get the outcomes that we need all tested through the system. That involves a lot of interaction with the users, making sure they understand the aspects that we are taking them through, making sure they understand the things which we would like them to test, and getting feedback from them, not just in the sense of does something work or not, but rather what was their experience with it, how did it work, and are there things that were confusing—that great swathe of detail that makes us have a system that is properly functioning. We couldn't do that without having access to the people doing the testing on quite a regular basis in the testing period.

CHAIR: Can I intercede for time management purposes, Senator Farrell? We have used all of the time we had allocated for outcome 3 and we have the minister has another commitment to get to, as scheduled with the program. Can you put your remaining requests on notice?

Senator FARRELL: Yes, I can do that. But we are going to IPEA?

Senator Cormann: IPEA are independent, so they can appear without me.

CHAIR: If you can put the remainder on notice we can move to IPEA.

Senator FARRELL: I can do that.

CHAIR: In that case, I thank the Department of Finance for their attendance and evidence over the last few days. I know Ms Huxtable had one other thing to add before you go.

Ms Huxtable: I just wanted to take the opportunity to note that this is Minister Cormann's final estimates with us as the finance department. I just want to note in that regard that he and I have done 21 estimates together since 2013. I also had the experience of Minister Cormann being on the other side of the table briefly when I was in the health portfolio. I would have to say that I've enjoyed the last 21 estimates more than those three or four.

Senator Cormann: That was the interview process!

Ms Huxtable: But I did want to take this opportunity to thank the minister for his support, both for myself and the department. He has elevated us to the best department in the Commonwealth, I believe, which I do tell my colleagues regularly. We have worked very closely together across seven budgets, seven budget updates and a fiscal update. We always have had a very constructive and productive relationship personally—I and also the department—with both the minister and his office. I very much appreciated the collegiate and respectful nature of all of our dealings and the high levels of professionalism of both the minister and his staff over the past seven years. So I want to take this opportunity on behalf of the department to put on the record how much we will miss him as the finance minister. I think it's fair to say we will probably miss him at the estimates table as well.

Senator Cormann: Wow. Thank you very much. I'm speechless.

CHAIR: Perhaps we should have that tag line sketched into the building: 'the best department in the Commonwealth'. Senator Cormann, can we formally farewell you from the Finance and Public Administration Committee. Some of us look forward to seeing you before the Economics Committee next week, but this will be your last ever appearance before F&PA, unless of course you come back as a private citizen to a references inquiry one day.

Senator Cormann: I look forward to it!

Independent Parliamentary Expenses Authority

[15:44]

CHAIR: I welcome Ms Annwyn Godwin, Chief Executive Officer of the Independent Parliamentary Expenses Authority, and other officers. Ms Godwin, do you wish to make an opening statement?

Ms Godwin: No, thank you.

Senator FARRELL: Are you aware of the allegations of branch stacking in the offices of Michael Sukkar and Kevin Andrews, and that the Department of Finance commissioned an investigation into those allegations?

Ms Godwin: Yes.

Senator FARRELL: In the course of that very expensive investigation, was IPEA consulted by either the Department of Finance or Ashurst, the law firm engaged to conduct the investigation, regarding any of these allegations about the use of parliamentary expenses or staff?

Ms Godwin: There has been no contact between IPEA and Ashurst, the law firm that was engaged by the Department of Finance. There has been some contact between the Department of Finance and IPEA regarding the requirement to produce some reports. We run the reporting system, as you are aware, so we produced some reports for them. There was a minor discussion early on in the process and I flagged that since they were going down an investigation path, for our own regulatory requirements and assurance for the public, we would require a copy of the report when it was completed.

Senator FARRELL: So you did provide some reports to the department?

Ms Godwin: We provided some reports to the department. I need to be very up front about this. Even though there were allegations that were made in the public against Mr Andrews and Mr Sukkar, of those IPEA only has jurisdiction with regard to the work expenses component for Mr Sukkar. There were some printing and communications reports that we were able to supply the department and we supplied those to the department very early on. I think the allegations appeared in public about 24 August. We received a request about 25 August and the next day we provided those reports.

Senator FARRELL: They were with respect to Mr Sukkar or Mr Andrews, or both?

Ms Godwin: No, just in regard to Mr Sukkar's printing and communications budgets.

Senator FARRELL: Right. And that was at the request of the department or on your own initiative?

Ms Godwin: Certainly some of the discussions were at the initiative of IPEA. The request I don't recall coming directly out of that. I will just check with a colleague. The request did come from Finance, I can confirm.

Senator FARRELL: You provided all the reports that the department had sought?

Ms Godwin: Certainly.

Senator FARRELL: And in good time?

Ms Godwin: Yes, very good time, the next day.

Senator FARRELL: Good. At any stage, were any of the matters the subject of the investigation referred to IPEA?

Ms Godwin: No.

Senator FARRELL: Does IPEA have the power to investigate matters such as this, even if it's not referred to you?

Ms Godwin: Certainly we do have that power. The fact that it was self-referred to the department doesn't stop IPEA from taking action in that area. We decided because we were already aware that the Department of Finance was doing an initial review/investigation that it would be more efficient for us to then wait for that report to come through and for us then to seek a copy, and to then take our own steps as we would see appropriate. That is in fact the stage that we are up to.

Senator FARRELL: Just run that last bit by me again? You are in fact conducting an investigation?

Ms Godwin: All information, as you're aware, under the processes that we go through—the fact that it was self-referred to the Department of Finance and that they've undertaken some work doesn't preclude IPEA, as the regulator in this area, from looking at them. And I need to be clear again: just the work expenses component.

Senator FARRELL: Yes, those parts of your responsibilities.

Ms Godwin: That's right.

Senator FARRELL: So you are in fact doing that.

Ms Godwin: We're doing everything consistent with our protocols. We've accepted that as part of our preliminary assessments and it's just one of a number of matters that we are looking at in that process.

Senator FARRELL: Generally, when reports like this appear in the paper, IPEA of its own accord does start an investigation.

Ms Godwin: Yes.

Senator FARRELL: So, you're following your usual practice. How long do you think that investigation process will take?

Ms Godwin: We've had this conversation: how long is a piece of string? It's not the only matter that we're looking at at any one time, but it is in that first assessment phase. It will make its way to the top of the queue at some point, and we will proceed to take all the usual steps. But I need to be very clear: it's only for the work expenses component, which is the printing and comms reports, that we are actually able to do.

Senator FARRELL: I understand. Under the Department of Finance protocols for conducting investigations into misuse of Commonwealth resources, if matters are determined to be more serious, they are referred to IPEA.

Ms Godwin: Yes.

Senator FARRELL: What, in your view, could constitute a more serious matter under this protocol?

Ms Godwin: We've recently updated the information on our website. We've identified areas that we would look at for our more substantial areas. I need to make this clear: this is what IPEA does when IPEA escalates things; this is not necessarily what the Department of Finance would consider.

Senator FARRELL: No, but this is what you would do in the event that the Department of Finance referred a matter to you.

Ms Godwin: We look at things as being serious and something that we would want to take through the whole process, which is through to our audit process, where we consider something to be substantial; 'of ample or considerable amount, quantity or size'; and/or systemic, as in it was 'affecting an organisation network as a whole'. Those are the two criteria that IPEA uses when making those sorts of assessments. The way that the Department of Finance may make that assessment is up to the Department of Finance, and we haven't actually had specific conversations about what that crossover point would be. I can only refer to what IPEA uses, not what the Department of Finances uses.

Senator AYRES: Can you confirm that party fundraisers don't form any part of the definition of 'parliamentary business' in the Parliamentary Business Resources Act?

Ms Godwin: That's my understanding. I've got my legal representative here—

Senator AYRES: Very good.

Ms Godwin: the lovely Ms Petra Gartmann, who can take you through all those technical questions.

Ms Gartmann: They're not specifically excluded activities. Where an activity may have a component to it, the fact that it has a fundraising component to it does not, in and of itself, exclude the activity from being parliamentary business, but it would depend on what the other aspects of that activity are. As you would know better than me, often some of those parliamentary business activities have a number of aspects to them or a number of tasks which are being done.

Senator AYRES: There's a dominant purpose test and all that sort of stuff, I suppose. Can you confirm that the use of Commonwealth resources to travel to party fundraisers would be a breach of the Parliamentary Business Resources framework?

Ms Gartmann: No. Some meetings of parties are specifically included. For example, a formal meeting of the political party, including a meeting of the party executive, a committee or a subcommittee, can be parliamentary business.

Senator AYRES: Indeed, but for a party fundraiser?

Ms Gartmann: If it was solely a party fundraiser—at the risk of giving a hypothetical answer, if the information—

Senator AYRES: I'm about to give you a concrete one, but yes.

Ms Gartmann: Okay. Should I wait for the concrete one, Senator?

Senator AYRES: You can if you like.

CHAIR: Since you've offered, Senator Ayres!

Senator AYRES: There's no need to go through the Perry Mason routine with these characters!

Senator SCARR: The very same role model I use!

Senator AYRES: Well, sometimes it is better to get there quickly, isn't it? There was a story in *The New Daily* on 23 April this year which reported that Senator Abetz and Mr Kevin Andrews used Commonwealth resources to travel to Sydney for Tony Abbott's farewell dinner, which also doubled as a Liberal Party fundraiser on 7 November 2019. FOI document 2026 shows that Senator Abetz travelled by Comcar directly from the airport to the fundraiser and then from the fundraiser presumably to the hotel. Is travel by Comcar to a Liberal Party fundraiser a permitted use of Commonwealth resources under the BPR Act?

Ms Gartmann: It would depend on what other activities were being undertaken. What I can say, which may be of assistance, is, in accordance with IPEA's protocol on how to manage allegations of misuse, an allegation of misuse such as that which appeared in *The New Daily* would prompt IPEA to examine the records.

Senator AYRES: Are you in a position to confirm that that's what happened on this occasion?

Ms Gartmann: I'm in a position to confirm that we have acted consistently with the protocol.

Senator AYRES: Senator Abetz flew from Alice Springs to Sydney on 7 November and returned home to Hobart at a total cost of \$1,821. Mr Andrews flew from Melbourne to Sydney and back the next day at a total cost of \$1,633 including a night of travel allowance. Did IPEA ask Senator Abetz and Mr Andrews what parliamentary business was being undertaken in Sydney on 7 or 8 November 2019 to justify that use of their entitlements?

Ms Gartmann: Can I confirm that the date coincides with the matter you raised before?

Senator AYRES: With the fundraiser I referred to before, yes.

Ms Gartmann: Sorry, could you repeat your question?

Senator AYRES: Of course. The fundraising farewell dinner for Mr Abbott was on 7 November. Senator Abetz flew from Alice Springs to Sydney on 7 November and returned home to Hobart at a total cost of \$1,821. Mr Andrews flew from Melbourne to Sydney and back the next day at a total cost of \$1,633 including a night of travel allowance. Did IPEA ask Senator Abetz and Mr Andrews what parliamentary business was being undertaken in Sydney on 7 November 2019 to justify that expenditure?

Ms Gartmann: IPEA generally doesn't comment on individual matters which may be under consideration, and that's in order to protect the privacy of the individuals involved but also to be careful not to prejudice the outcome of any investigation. Where IPEA does not have sufficient information or evidence in its own records to determine what activities were

undertaken, we would engage with the parliamentarian and query what activities were undertaken.

Senator AYRES: Have you undertaken any investigations into these matters?

Ms Gartmann: We've acted consistently with the protocol. I can confirm that we're aware of the matter.

Senator AYRES: Can you tell me whether you're satisfied that the dominant purpose was for parliamentary business?

Ms Gartmann: I'm not able to do that.

Ms Godwin: If I may just interrupt at this point, I can confirm that every time we receive information from third parties, from referrals, from other agencies, for example—

Senator AYRES: From the press.

Ms Godwin: from the press, everything that we become aware of goes through—and I'm just going to hold that little document up—this process.

Senator AYRES: Yes.

Ms Godwin: From that, you can draw some conclusions. What stage we are up to in that process exactly is probably a different thing, which is where my colleague is not trying to not be helpful. But we do try to allow people to have those opportunities because procedural fairness is a very important component for us, as is privacy and making sure that everything is considered appropriately.

Senator AYRES: I'm trying to construct a question that you can answer. If it was in the process but not resolved, that would be consistent with the answers that you've just given me?

Ms Gartmann: Yes.

Ms Godwin: Certainly.

Senator AYRES: Okay. Everything else I have for IPEA, I'm happy to put on notice.

CHAIR: Thank you, Senator Ayres. That's most appreciated. If there are no further questions for IPEA, I thank you for your attendance and your evidence here this afternoon. The committee now will break for 15 minutes and will return with Minister Seselja and his responsibilities under outcome 2 of the Department of Finance.

Proceedings suspended from 15:59 to 16:18

CHAIR: The committee will now resume, moving to its examination of outcome 2 responsibilities under Minister Seselja. Welcome back to the committee, Minister Seselja. Do you wish to make an opening statement at this point?

Senator Seselja: Thank you, Chair, no I don't.

CHAIR: Ms Huxtable, do you wish to make an opening statement at this point?

Ms Huxtable: No thank you, Chair.

CHAIR: In that case, I will offer the call to the deputy chair.

Senator AYRES: Thanks very much. I want to ask a series of questions about government advertising in the context of the COVID-19 pandemic. There was a report in *The Australian* today which said that there's been a 50 per cent increase in government advertising from last year, with advertising spending said to be between \$190 million and \$200 million.

That's a record for a non-election year. In the context of that increase in spending, what are the pandemic-related campaigns that have been run this year?

Senator Seselja: I'll go to Dr Helgeby and to Trish as well. I'll start by saying that the figures in *The Australian* today are, I suggest, a reasonable way off the mark. We have figures up to roughly the middle of the year in the annual report, which you'd be aware of, and our financial-year figures. I'll get officials to break down some of that expenditure, but the vast majority has been COVID related, and we'll go into some of that. But I wouldn't accept at all—in fact, it's impossible at this point in the calendar year to be making those kinds of judgements. We'll go into some of those figures in a little more detail for you now.

Dr Helgeby: We have seen that article in *The Australian*, and we can't produce or replicate those numbers. There are three COVID campaigns or what we describe as the three COVID related activities. A health related one—safe hygiene practices—was a campaign that ran from 8 March to 27 September. The article says that was \$70 million. That's not right.

Senator AYRES: I understand that the minister just said you're not in a position to say with a lot of precision how much has been spent, but, if that concluded last month, is there a ballpark figure for what that campaign's cost?

Dr Helgeby: I might explain a bit of the mechanics first. There's a financial-year report, which comes out at the end of the calendar year. It is a fully reconciled set of numbers. That will come out before the end of this calendar year. The reconciliation process itself takes around 45 days to get reliable numbers from the end of a period. So anything that's in September would not be possible to reconcile—

Senator AYRES: So real time plus 45 days is the state of what your knowledge of—

Dr Helgeby: Yes, it's 45 days for a reconciliation process before we have credible numbers. We are now at 22 or 23 October, so that pushes us back a fair bit. We couldn't go beyond July on a reliable basis. There was a Health campaign. There was a Treasury campaign. The article said that was worth \$40 million—it was not. The article does not mention a domestic violence support campaign, which was also COVID related.

Senator AYRES: So those three are the three campaigns?

Dr Helgeby: Yes.

Senator Seselja: The three COVID related campaigns.

Dr Helgeby: The three COVID campaigns, yes.

Senator AYRES: And all government campaigns abide by the guidelines on information and advertising campaigns?

Senator Seselja: All abide by the guidelines. There were COVID campaigns which were given exemptions from the ICC process—

Senator AYRES: Yes, I'll come to those.

Senator Seselja: but they still abide by the guidelines. There's just a different process for when you're dealing with, in some cases, urgent campaigns. In this case, it was determined that responding to COVID was pretty urgent, and so exemptions were given by the Special Minister of State on the COVID health and the COVID economic campaigns, I believe.

Senator AYRES: Over the course of the last week, every time I've gone shopping—which is too often—there are electronic billboards in shopping centres with this economic recovery plan on them. So that's not one of these COVID related plans?

Ms Johnston: No, that's not one of the COVID related campaigns.

Senator AYRES: What is its purpose?

Senator Seselja: The economic recovery campaign?

Senator AYRES: Yes.

Senator Seselja: Fundamentally, the purposes of individual campaigns are for the relevant ministers and departments that put them together. Obviously, we have a process and there's a process within government to make sure that campaigns follow campaign guidelines, and that goes through that process. But I think the point, in terms of Ms Johnston's answer, is that the two campaigns that we've talked about—in relation to COVID health and the COVID economic response—were the ones that were given the exemptions. Then, obviously, there is economic recovery, which Treasury can speak to in terms of the detail, which I understand was not given the specific exemption so it went through the ordinary processes with those ordinary approvals.

Senator AYRES: Which agency does this campaign come from?

Senator Seselja: Which campaign, sorry?

Senator AYRES: The ourcomeback.gov.au—

Senator Seselja: That's Treasury.

Senator AYRES: It's a Treasury campaign, is it?

Senator Seselja: Yes.

Senator AYRES: Dr Helgeby, you're not in a position to tell me how much the campaign has cost to date; are you able to tell me how much is budgeted for it?

Dr Helgeby: For that one?

Senator AYRES: Yes.

Dr Helgeby: No. You'd have to ask the department that.

Senator AYRES: So you don't have any line of sight on how much public expenditure is going to this?

Dr Helgeby: In terms of actuals data, as in things that relate to those COVID campaigns—and things go back to about July—we can give you figures. In terms of a campaign that starts at a point in time, essentially, you don't know exactly what that's going to cost until it launches, it has run and then concluded. You'd have to ask the department concerned what they were contemplating.

Senator AYRES: So you can only tell me 45 days after? In terms of actuals, you have no line of sight on what it is that the Commonwealth government proposes to spend on this advertising campaign?

Ms Johnston: No.

Dr Helgeby: No.

Senator AYRES: It's a very significant campaign.

Dr Helgeby: The way campaigns work, as I said, is that people start with that strategy. They start with a campaign goal and they start with—

Senator AYRES: Are you provided with the campaign material?

Dr Helgeby: We see various stages of that process.

Senator AYRES: What are the objectives for this campaign?

Dr Helgeby: For that particular one? I haven't got that in front of me, Senator.

Senator AYRES: Can somebody bring it to us?

Ms Johnston: The campaign aims to inform the Australian community about a range of government measures that are designed to create new jobs and support employment and business recovery.

Senator AYRES: I think that people are pretty sick of this sort of stuff, Minister—really.

Senator Seselja: Sorry, what are they sick of?

Senator AYRES: A sort of vast expenditure of Commonwealth money to tell people about the government's achievements.

Senator Seselja: I don't accept that, and—

Senator AYRES: Does it help them to get a job?

Senator Seselja: In terms of the detail of the economic recovery campaign, it's something Treasury can speak to. But in terms of measures generally: when we talk about options for training programs or for other economic support measures, of course it's very important.

Senator AYRES: How many people will get a job because of this program?

Senator Seselja: Again, you're going into the detail of the Treasury's advertising campaign—

Senator AYRES: You know that the answer is none, apart from people in advertising agencies!

Senator Seselja: Well, no. If what—

Senator AYRES: It's an advertising-led recovery, is it?

Senator Seselja: Frankly, you're being critical of government advertising at a time when we have been through this extraordinary year, where we have responded urgently and, I think, very well to inform the public about health issues and health advice. That's been critical and it's been the bulk of our spend. Then there have been critically important economic measures when it comes to economic support, whether that's JobKeeper, JobSeeker, cash flow support for business or other supports. That's been absolutely critical for people to know how they can get access to those supports.

As we now move to the next phase, where we're recovering, of course the government will continue to keep the community informed about what measures there will be to help grow the economy and what access there is for people, whether it's in training programs or other economic measures. But, fundamentally, in terms of the absolute detail of that campaign, that's something for the Treasury to speak to.

Senator AYRES: This isn't one of those COVID campaigns. We just talked about those. *The Australian* claims that's circa \$200 million a year. Mr Helgeby has refuted that and said

that it's significantly less. We will get to find out how much for those three COVID related campaigns. This is an entirely separate campaign. Was it reviewed by the Independent Communications Committee?

Dr Helgeby: Yes, it was. The certification—or the letter—in response is posted on the website.

Senator AYRES: I think we have seen the letter. What were the findings that sit behind the letter?

Dr Helgeby: The letter basically summarises the findings of the Independent Communications Committee.

Senator AYRES: Can you provide us with the findings?

Dr Helgeby: Yes. The letter says:

The Committee is satisfied that the campaign is relevant to government responsibilities (Principle 1), and that the campaign is being developed in line with Principles 2 to 4 of the Guidelines.

It goes on.

Senator AYRES: It does go on, doesn't it? That is not the findings, is it?

Dr Helgeby: Sorry, I am not quite clear what 'findings' means in this context.

Senator AYRES: Does the letter reflect the whole of the committee's determination in this campaign?

Dr Helgeby: So this is a committee that in essence only produces one product, and that is a letter. So the letter is what they have done and that is their considered view.

Senator AYRES: Principle 3 of the campaign advertising guidelines say that, 'Campaigns should be objective and not directed at promoting party political interests'. Paragraph 27 says, 'Campaigns must not try to foster a positive impression of a particular political party or promote party political interests'. The phrase 'Our comeback' is used across the advertising campaign, including in the website's name—oucomeback.gov.au. Who knows whether that will catch on. The website contains links to essentially government policy announcements throughout the pandemic, with no significant reference to any health information or anything that helps anybody get a job. Are you in a position to explain how this is genuinely informing the public, as opposed to the promotion of the Prime Minister and his announcements?

Dr Helgeby: I will go back to the role of the ICC. The role of the ICC is to consider material presented to it, to ask questions of proposing entities and to form a view. They have set that view out in their letter, and the letter says, 'The committee has concluded the proposed economic recovery plan campaign is capable of complying with principles 1 to 4 of the guidelines', so that includes principle 3. That is the view they formed after discussions and after consideration of material provided by the Treasury.

Senator AYRES: Minister, is it really your evidence to the committee that you don't know what the budget is for this campaign?

Senator Seselja: You have asked officials that and they have given those answers.

Senator AYRES: What about you?

Senator Seselja: I don't have any additional knowledge to what the officials have.

Senator AYRES: There are relevant thresholds for the ICC process, aren't there?

Dr Helgeby: Yes.

Senator AYRES: How do you work out the thresholds if you don't have a budget?

Dr Helgeby: The threshold is \$250,000 or more. Essentially, to be below that threshold—

Senator AYRES: There was probably \$250,000 worth of billboards in the shopping centre I was in the other day.

Dr Helgeby: There are a number of things that fit under \$250,000. For example, there is a bit of material being conducted by the Great Barrier Reef Marine Park Authority, the Royal Australian Mint, Veterans' Affairs, the Bureau of Statistics and a number of others. They are noticeably more niche in their approach and have much less presence—and that is what gets them below the \$250,000 threshold. These campaigns—

Senator AYRES: So it is your evidence that you don't know the budget. It is the assistant minister's evidence, he doesn't know the budget. Is there a blank cheque for this self-promotion exercise?

Dr Helgeby: You asked about a budget and you asked about a number. I don't have that number. That is quite a different thing from there being an open-ended ability to undertake spending. I answered the question on the basis that you can only know the full cost of a campaign once it has started, once it has run and once it has concluded.

Senator GALLAGHER: So Mr Blyth isn't given that as part of the paperwork that he's provided?

Dr Helgeby: The committee has discussions with the department and has information from the department, but those are at an early stage. They are at a strategy stage of the process.

Senator AYRES: There must be a contemplation of the size of the campaign.

Dr Helgeby: All I'm saying is, if you wish to ask a question about the size of the campaign and get an answer, you would have to ask Treasury because they are running the campaign. If your question is a broader question about how these things work, then you can ask us. If you wish to know what is the budget that the Treasury has applied to this, Treasury is the right portfolio to answer that.

Senator GALLAGHER: You support the Independent Communications Committee, or the Department of Finance plays a secretariat role, I imagine.

Dr Helgeby: Yes.

Senator GALLAGHER: As part of the information that goes to that committee, there isn't a budget? I mean, obviously they have to say something. They tick a box: 'It's over \$250,000,' so it meets that threshold. That is why it is coming before you. But your evidence to the committee—acknowledging we will ask some questions of Treasury—is that they don't at that point, where they give a compliance certificate, require a total spend on the campaign?

Dr Helgeby: They are not signing off on a spend or anything like that. They are signing off on a strategy. So they would have discussions with each department about what their intentions are, but that is different to a budget. That is talking about what is the approximate mix of different types of media, for example, and what is the duration.

Senator GALLAGHER: Yes. In a scheme that I have worked under before, you did have to say what you were intending to do—your media buy, what the project's total costs looked like. Acknowledging that there may be movements with that buy, that was a requirement of getting compliance advice, because overall spend and strategy does, surely, impact on some of the issues that the Independent Communications Committee has to consider.

Dr Helgeby: I am talking about the ability of this department to give senators a number which you can have confidence in. We don't have that. The Department of Treasury has that.

Senator GALLAGHER: The Independent Communications Committee may have been given that by Treasury as part of their consideration. Is that possible?

Dr Helgeby: Yes, it is possible.

Senator GALLAGHER: But it is not mandatory?

Dr Helgeby: No. When something comes to the Independent Communications Committee, they see the strategies, they see a lot of other work that has gone in behind it and they see basic information about what is the intent to run a campaign, in what media, over what sort of time frame, and they get some sort of sense about what that might cost, but that is not the same as a budget.

Senator AYRES: I appreciate the point that it is not the same as a budget, but it gives a sense of scale to the committee about how big the campaign is going to be.

Dr Helgeby: Yes. The committee has a sense of the scale of something, yes.

Senator AYRES: And do you see all of those materials?

Dr Helgeby: Yes, we do.

Senator AYRES: So what was the number?

Dr Helgeby: I don't have that number.

Ms Huxtable: I think he took it on notice already.

Senator AYRES: I don't think we got to put it on notice.

Ms Huxtable: Okay. Maybe he has taken it on notice now.

Senator GALLAGHER: I think he referred us to another committee.

Senator AYRES: He told us to go and talk to somebody else about the budget—to be fair to Dr Helgeby. We are talking about two different things then. These numbers may be exactly the same at the end of the day, but how big the spend is that the department is proposing is a slightly different question to how much is budgeted for the campaign. I get that. You got to see the number but you can't remember what it is. You'll provide it to us on notice, is that—

Dr Helgeby: I'll take that on notice.

Senator AYRES: The chair's letter on 6 October says:

The Committee was also reassured by the Department the language in the campaign's creative materials would be managed to remain clearly distinguishable from party political material. For this reason, the Committee has concluded that the proposed Economic Recovery Plan campaign is capable of complying with Principles 1-4 of the Guidelines.

Dr Helgeby: Yes.

Senator AYRES: That doesn't project a lot of confidence, does it?

Dr Helgeby: The committee sees things at a strategy stage—in fact it's actually set up earlier in the letter. So the documents that the committee sees are those listed as 1 to 4: a communications strategy—that's obviously a high-level document; formative communications research—what is it that's sitting behind the thinking here; a draft media strategy and indicative media plan overview—that's what gives that sense of qualification to discussions about the scale et cetera; and then a statement against the principles. It sees it at an early stage, and the committee therefore does not see final materials, does not see final budgets and does not see specific placement details. It does not see those things and so, in saying that something is capable of complying, it is saying all that that committee can say based on the information it has available to it and the questioning that it undertakes.

Senator AYRES: Yes, but it's clear from the language that's used in that paragraph, isn't it, that the committee had some concerns with the campaign strategy? It doesn't say the campaign does comply with the principles or is likely to comply with the principles; it says it's 'capable'. It's a very deliberate form of words, isn't it?

Ms Huxtable: I think you'll find, Senator, that they're quite standard words that the ICC uses because at this very early stage, the strategy stage, all they can do is give assurance that it's capable of meeting the guidelines and then there is further development of the campaign beyond that point. That's correct, Stein?

Dr Helgeby: Yes, that's right.

Ms Huxtable: So that is language that is, I believe, always used in these assurance letters.

Dr Helgeby: It's language that's existed in that form for many years.

Senator AYRES: So it's always provided in that format?

Dr Helgeby: For many years, yes.

Senator GALLAGHER: It's not in the one I'm looking at.

Senator Seselja: It's because of where it is in the process as well, as has been explained. You've got the ICC process and then, at the end, when you have a final process, when you have a final campaign with all of the materials that are going to go out, I understand—and Ms Johnston might elaborate on this—agency heads or department heads, whoever's responsible for the particular campaign, also have to be satisfied that it meets all of the guidelines before it goes out. So it is a multistage process. The ICC is one part of that process, which happens early on.

Senator GALLAGHER: If I can just jump in off the back of that: in all of the letters that I've seen there is quite a bit of difference. The main word is that the committee is satisfied, not that the committee was reassured.

Ms Huxtable: I've pulled up the domestic violence one. It says:

For this reason, the Committee has concluded the ... campaign is capable of complying with Principles 1-4 of the Guidelines.'

I don't see a huge number of these, but it resonates with what I normally see, including back when I was in the health department and I used to see some of these campaigns and the language was quite similar—though that was some years ago.

Dr Helgeby: In this letter in the paragraph that you were focusing on, the committee is making public some of the questions it has asked of Treasury and some of the issues it's

examined when it reached its view that 'the proposed Economic Recovery Plan campaign is capable of complying'. So the 'is capable of complying' is exactly what it would say of any other campaign which it felt—

Senator AYRES: All of the other ones—that's the standard language. So it uses that language after saying:

The committee was also reassured by the department the language in the campaign's creative materials would be managed to remain clearly distinguishable from party political material.

I'm not sure they've achieved that. So there's been a fair bit of backwards and forwards to try to satisfy the committee, has there?

Dr Helgeby: Very typically, the committee would both read all these materials, which I described as 1 to 4, and then meet with the department and ask questions. That's their job, and it's specified in the guidelines. What they're doing in this paragraph is making public some of the questions that they explored with Treasury when they reached that view that it is capable of complying.

Senator AYRES: But it's a taxpayer funded pat on the back, isn't it? How does that comply with principle 3?

Senator Seselja: Sorry, which part are you suggesting doesn't comply with the principles?

Senator AYRES: Well, the campaign is just a pat on the back, isn't it? I still can't see what the possible public purpose is. Just on this question of the figure, there's a tender from the Department of the Treasury; its ID is CN3709125. It's a variation. The original amount is \$1 million. For this one, the contract is for \$14,300,000. Is that for the campaign that we're talking about, with Universal McCann?

Dr Helgeby: You'd have to ask Treasury what that one is.

Senator AYRES: Can you remember whether the number was bigger than \$14 million?

Dr Helgeby: You'd have to ask Treasury what that is, because a contract as disclosed on AusTender is typically a maximum amount for something, and you need to know what the something is and what's included in that. The spend and the amount disclosed on AusTender need not—

Senator AYRES: Thank you. Principle 5 of the guidelines requires campaigns to comply with legal requirements, including electoral laws. The billboard in this campaign includes an electoral authorisation, but the website for the campaign doesn't. How does that meet principle 5?

Dr Helgeby: Senator, I'm not aware of what you're discussing. An electoral authorisation is a very different thing to the kind of authorisation that happens in government advertising, so I don't know the material you're talking about. I can't help you with that.

Senator AYRES: As part of the consideration of the economic recovery campaign, the committee met with Treasury officials and reviewed documentation—consistent with what you've just said, Dr Helgeby—that included what they call 'formative communications research'. So they considered communications strategy, formative communications research, a draft media strategy and the letter to Mr Kennedy. What communications research was considered? Did this come across your desk?

Dr Helgeby: Do you recall?

Ms Johnston: We've seen research. I can't recall what's in it. I'm sorry.

Dr Helgeby: It's normal practice for a campaign to be informed by—and in fact it's actually set out in the guidelines that it should be informed by—relevant research. I don't recall the specifics of this, but that research would go to things like levels of understanding, for example, and also it would go to all of the things that you need to do to help ensure that a campaign is effective.

Senator AYRES: AusTender shows that in May of 2020 a long-term Crosby Textor pollster, Mr Jim Reed, won a \$341,000 contract with Treasury for market research. That contract was awarded through limited tender due to extreme urgency or events unforeseen. It's since been amended and increased in value to \$554,000. Was that the research that—

Senator GALLAGHER: Resolve Strategic.

Senator AYRES: Resolve Strategic—the formative communications research?

Dr Helgeby: I think that question's best directed to Treasury.

Senator AYRES: But you have seen the material, haven't you?

Senator GALLAGHER: And we can ask questions here, Mr Helgeby. You know the answer. The Senate is asking you.

Dr Helgeby: Well, in fact—

Ms Huxtable: No, we won't know the answer.

Senator GALLAGHER: Well, there was just a discussion, and Ms Johnston said that she had seen the research that underpinned this campaign.

Ms Huxtable: But I think she also said that she couldn't recall the details. I think one of the difficulties here is that we provide support to the ICC, but agencies manage these campaigns. They manage processes through government in respect of any funding that might be associated with these campaigns. And they're the ones, at the end of the day, who sign off that these campaigns comply with the principles. That process, in its generality, has not changed for many, many years. I sense your frustration. But we have only narrow responsibilities in this regard, so we are not managing these campaigns; we're not the ones who are presenting to the ICC on the campaigns.

Senator GALLAGHER: We're not suggesting that you are.

Senator AYRES: I'm not frustrated by this. We will get to Treasury in due course. But I know that you see the material on its way through to the committee, and I think you're in a position to tell me what the nature of that research was.

Dr Helgeby: I've got no recollection of that specific item you're discussing. You mentioned a specific CN number and a specific value. I've got no recollection.

Senator AYRES: Yes, and a specific name and a specific company name.

Dr Helgeby: I'm not aware of ever having seen that.

Senator AYRES: What about you, Ms Johnston?

Ms Johnston: I'm not aware—I'm aware that I have seen research that's come through from Treasury; I'm not aware of who provided that research. I can't recall that.

Senator GALLAGHER: Well, could you check for us? We're here until late tonight. I mean, this goes to information provided to the Independent Communications Committee. That's the question we're asking. We're not saying you're responsible for it or anything else. But it does go to the level of knowledge that this committee, which you support, had as it made these decisions. We know that it was provided with information about the market research. We are asking where that market research came from and whether it was Resolve Strategic. It's a pretty easy question.

Senator AYRES: And it wasn't very long ago. It was, what, 6 October?

Ms Huxtable: We can check with the Treasury.

Senator AYRES: Well, it's not a matter of checking with Treasury, is it? It's about checking the material that you've processed for the committee.

Dr Helgeby: We will check the material that we have seen.

Senator GALLAGHER: Thank you.

Senator AYRES: We learnt yesterday, through an answer to a question on notice from I think the COVID committee, that Mr Reed's research for Prime Minister and Cabinet had been shared with Mr Morrison's office. The day before, I asked whether that was the case, and I was assured that it wasn't. Have you seen Mr Reed's research? Do you know Mr Reed, Minister?

Senator Seselja: I don't think so. I'd have to check. It doesn't particularly ring a bell.

Senator AYRES: You haven't seen the research?

Senator Seselja: I don't believe so, no. When did you say the research was prepared?

Senator GALLAGHER: I think it was commissioned in the last six months or so.

Senator Seselja: I don't think so. But, just to be 100 per cent clear, I'll take that on notice and come back to you if I have anything to add.

Senator AYRES: We might come back to this when we hear back from you about the material provided to the ICC. I want to go to campaigns exempted from the guidelines. Have all of the campaigns that you referred to, Mr Helgeby, earlier in our discussion been the three COVID campaigns that were exempted from the guidelines?

Dr Helgeby: Two of them were.

Senator AYRES: Which one was it?

Dr Helgeby: The Health one and the Treasury one, called economic support measures.

Senator AYRES: So those two were exempted—

Dr Helgeby: They were exempted.

Senator AYRES: and the third one, the domestic violence one, went through the ICC process?

Dr Helgeby: No. It went through the full process.

Senator AYRES: Have any other campaigns this year been exempted from the guidelines?

Dr Helgeby: No.

Senator SCARR: Sorry, Chair. Was it exempted from the guidelines or exempted from a particular part of the process?

Dr Helgeby: That's right. It's an exemption to go through the ICC. So even if you are exempted to go through the ICC—

Senator AYRES: You still have to comply.

Dr Helgeby: you still have to comply with the—

Ms Huxtable: That's right.

Senator AYRES: Who then determines that?

Dr Helgeby: Determines?

Senator AYRES: Whether or not you've complied. There's a starting gate you've got to get through in the normal course. You've got to get through the ICC, although, looking at the campaign we were just discussing, it's not a very high bar to get over. But how would a campaign that didn't comply be assessed?

Dr Helgeby: An accountable authority has to satisfy themselves that they have complied with the guidelines.

Ms Huxtable: That's all set out in the exemption that the Special Minister of State provides, which is a statement to the parliament. The statement I'm looking at here is the health exemption, and it sets out that the Minister for Health has indicated that advertising will be developed in accordance with the underlying principles of the guidelines and will add here to any usual processes et cetera. Further, consistent with the need for the appropriate use of Commonwealth resources, the campaign will be 'undertaken in an efficient, effective and relevant matter' with regard to relevant broadcasting and electoral laws. So it's set out in that exemption. You might have a copy of that with you.

Senator AYRES: I don't have that in front of me, but the exemption was in March, wasn't it?

Ms Huxtable: That was on 23 March, and there's also a Treasury one, which was on 1 April.

Senator AYRES: It's difficult to continue to justify the exemption, given we've moved significantly through the pandemic. What's the intention with how long this capacity to have an exemption is going to be provided for?

Dr Helgeby: Of the two that were granted an exemption, the Treasury one has concluded. So the exemption for that campaign has concluded. You are discussing a different campaign—the Economic Recovery Plan Campaign—which has been through the process.

Senator AYRES: Why has it been through the process and the other—

Ms Huxtable: Because it didn't have an exemption. The exemptions are in respect of particular campaigns, and, when the campaigns conclude, then the exemption ceases.

Senator AYRES: How do we know whether future exemptions are likely to be provided?

Senator Seselja: My understanding is that exemptions, when they're given, are publicised.

Ms Huxtable: Or there's a statement to the parliament.

Senator Seselja: Yes, there's as a statement to the parliament. I've got to say, Senator Ayres, that, of all of the exemptions that have been given over the years, I think the justification for giving an exemption for the COVID health and the COVID economic supports would be by far the most compelling of any—bar none, frankly. So, I think the suggestion that somehow there wasn't an urgency in getting information out to the public during this year and during this pandemic is a very, very hard argument to justify, frankly.

Senator AYRES: It's not an argument I am trying to make.

Senator Seselja: It's implicit.

Senator AYRES: That's a bit silly, really.

Senator Seselja: I'm not being silly.

Senator AYRES: I said at the outset I have asked a series of questions about the three COVID related advertising programs. No objection to that. I am, it's fair to say, deeply sceptical about our economic recovery taxpayer funded pat on the back that you guys have arranged for yourselves—

Senator Seselja: At the moment you're asking about exemptions—

Senator AYRES: and now I am asking about future exemptions and whether or not they are necessary. I appreciate the economic recovery plan wasn't given an exemption. What I want to know is: what's the plan for government funded advertising and exemptions down the track?

Senator Seselja: Obviously it's a case-by-case basis. I think it's fair to say that it's been relatively rare that these exemptions have been granted by this government. I'm not aware of many. I think there was one for the marriage law postal survey. In terms of the future, I think it's fair to say that it'd be a case-by-case basis and when it's justified.

Senator AYRES: I'm happy to go to Senator Scarr now.

Senator SCARR: Thank you. I am an avid reader of *The Australian* newspaper, a great fan of that publication.

Senator GALLAGHER: What a surprise!

Senator SCARR: No surprises there, Senator Gallagher!

Senator AYRES: Well, there's the occasional error by the sort of conservative crowd that we get to spend some time on—

Senator GALLAGHER: The Minister for Finance told us there was a critical story of the government in *The Australian* earlier today. It was a real shock.

Senator SCARR: I must say, the introduction to this article is a cracker. It says: 'You can get it reading, you can get it driving, you can get it scrolling your social feed,' which reminds me of great advertising campaign of my youth. Coming back to those three campaigns you referred to, Dr Helgeby, I think it is important that we put some of the facts on the record for the readers of *The Australian* and others. You mentioned there were three COVID related campaigns which had been undertaken. My notes say the first was in relation to health, dealing with hygiene practices, et cetera. The second one was a Treasury campaign with respect to economic support features including, presumably, JobKeeper JobSeeker, et cetera. The third one was in relation to domestic violence support. Do you have figures for the spend

on those three campaigns up to and including, say, the end of the financial year, 30 June 2020? What's the date that you have definitive figures?

Dr Helgeby: I can give you a definitive aggregate figure to the end of July. For the 2019-20 financial year, we're expecting a figure of \$127.9 million.

Senator SCARR: Sorry, what are the dates we're talking about here?

Dr Helgeby: This is the full financial year 2019-20.

Ms Huxtable: This is for all campaigns.

Senator SCARR: Up to 30 June 2020, \$127 million for all Australian government campaigns?

Dr Helgeby: In total. I can give you a reliable figure for an aggregate for July, which is about \$10.8 million. Of that, about \$8.8 million was for the COVID campaigns—those three that we've talked about.

Senator SCARR: As I understand what you're saying, just for that month of July 2020, the figure was \$8.8 million for the COVID related campaigns out of a total Australian government advertising spend of \$10.8 million?

Dr Helgeby: That's correct, Senator.

Senator SCARR: For the month of July?

Dr Helgeby: For the month of July.

Senator SCARR: So about 80 per cent, with a rounding error?

Dr Helgeby: Yes.

Senator SCARR: If you were to look back six months, say, from 1 January to 30 June, is it a similar sort of proportion? Presumably there's a bit of lag time in terms of the campaigns, because you said the health campaign didn't start until 8 March. Is there a longer time period over which you can give us some feel for the proportionality?

Senator Seselja: I'll briefly answer before officials can fill out my answer. I think it's fair to say that, from March-April onwards—so that portion of the financial year and that portion of the calendar year, particularly around April-May—the vast bulk of government advertising that was conducted during that period would be related to COVID. Perhaps I can ask for a more detailed breakdown of those figures.

Dr Helgeby: You asked about the period January to June.

Senator SCARR: Say, half the financial year.

Dr Helgeby: Just under \$97 million, that's a total. We think about \$71 million of that relates to COVID.

Senator SCARR: Okay, so \$71 million out of the \$97 million for the six months before July?

Dr Helgeby: Yes.

Senator Seselja: That would be far more pronounced in the back end of those few months.

Senator SCARR: Noted. The greatest proportion of Australian government advertising during the period from 1 January, even though it didn't start from 1 January, till the end of

July was in relation to COVID-specific Australian government advertising to communicate to the community the key messages they needed to know in order to deal with the pandemic. Is that correct?

Dr Helgeby: That's correct.

Senator SCARR: I want to ask one other tangential question, and apologies for not being aware of this. To what extent does the department look at issues like whether or not there's sufficient advertising to different multicultural groups—whether or not advertising is in culturally and linguistically diverse languages to make sure that the people in those communities, especially in those communities where the English language is not the first language, aren't isolated from the key messages that they need to understand?

Dr Helgeby: I might ask Ms Johnston to talk to that.

Ms Johnston: It's an important consideration of an advertising campaign to make sure that people from multicultural backgrounds do receive the government messages. In terms of the COVID campaigns, they were translated into about 31 different languages.

Senator SCARR: Are those the three campaigns we've spoken about, the health, Treasury and domestic violence campaigns?

Ms Johnston: Yes, in particular the health one.

Senator SCARR: Did you say 31 languages?

Ms Johnston: Yes, 31.

CHAIR: Just to refresh my memory with a bit of history, because this has been an issue that's come before the committee in previous rounds of estimates: what's the history of campaigns being exempt? Are there other historical examples of campaigns being exempt from these sorts of guidelines?

Dr Helgeby: I can give you the history since 2009.

CHAIR: Okay. Thank you.

Dr Helgeby: In 2009, there was a health one related to swine flu.

CHAIR: That one sounds quite similar to COVID, in a way.

Dr Helgeby: I won't—

CHAIR: You don't need to.

Dr Helgeby: In 2009 as well there was an AEC campaign exemption, and that's actually an ongoing exemption. In 2010, there was one for tax reform.

CHAIR: What specific form of tax reform? In 2010, that would've been mining tax, perhaps, or maybe carbon tax?

Senator GALLAGHER: That's so much time beyond this estimates hearing—

CHAIR: It doesn't sound like a global health pandemic—

Senator Seselja: It was very urgent for a particular prime minister, although it may not have done the job.

CHAIR: Indeed, 2010 was a significant year for prime ministers. Some might even say it's political, but anyway, Dr Helgeby, please continue.

Dr Helgeby: In 2013, there was one about asylum seekers.

CHAIR: Yes, they were quite infamous. I do recall those ones.

Senator Seselja: One conducted during caretaker period, I believe.

CHAIR: That's why.

Senator GALLAGHER: You're very prepared to answer all these questions.

CHAIR: Senator Gallagher, don't be so cynical! It's probably just because it's probably been asked before.

Senator GALLAGHER: No.

Dr Helgeby: In 2017, there was the marriage law postal survey. In 2020, there were the two we talked about: the Treasury campaign, which was about benefits and entitlements, the one that's concluded; and the health one which we've been talking about.

CHAIR: To summarise, there's a long history of it under governments of both persuasions, sometimes in the middle of global health pandemics, sometimes for other purposes.

Senator Seselja: Yes, some are more urgent than others, I think it's fair to say, Chair.

CHAIR: Thank you, Minister, and thank you, Dr Helgeby.

Senator GALLAGHER: Minister, can you refresh my memory on why this section of the program is split, and which are the things that you spend your time on? Under Outcome 2, what are the big—

CHAIR: You should come to our private committee meetings, where we discuss this.

Senator GALLAGHER: Amongst the committee members, why it's split?

CHAIR: The program.

Senator GALLAGHER: It splits out SMOs—it's only come about since 2019, dealing with this part of the program this way.

Ms Huxtable: It relates to the responsibilities of Minister Cormann and Minister Seselja.

Senator Seselja: It's the broad split. As assistant minister I do whatever is required by the senior minister, and the senior minister can take any parts of the portfolio at any time. But it's the sort of notional split of responsibilities.

Senator GALLAGHER: So under 'public sector governance', the main areas there—it doesn't cover your charities or anything like that, does it?

Senator Seselja: No, that's just the title. Charities comes in Treasury.

Senator GALLAGHER: So it's just the assistant minister for finance?

Ms Huxtable: That's right.

Senator GALLAGHER: It's active grace payments and waivers of debt?

Ms Huxtable: Yes.

Senator GALLAGHER: Is there anything else under this area or is that it?

Senator Seselja: In public sector governance?

Senator GALLAGHER: Yes.

Senator Seselja: I don't think there's anything that's specifically—there might be some things that are not worth noting as a headline, perhaps.

Senator GALLAGHER: Under property and construction that's all yours, isn't it?

Senator Seselja: It talks about excluding lands acquisition—

Senator GALLAGHER: It's more about government owned property leasing.

Senator Seselja: Leasing, primarily, and those sorts of things; divestments as well.

Senator GALLAGHER: Insurance and risk management?

Senator Seselja: Primarily Comcover.

Senator GALLAGHER: So it is how it's—that picks up. There's nothing else.

Senator Seselja: It's broadly as described. If there were specific questions you had, as to whether there were other bits, I'm sure we could provide some of that.

Senator GALLAGHER: We've been covering your 2.5 with the government campaign advertising.

Senator Seselja: Campaign advertising; that's correct.

Senator GALLAGHER: And then super—you don't have CSC?

Ms Huxtable: It's not superannuation policy; it's more—

Senator Seselja: Yes, that's right.

Senator GALLAGHER: It's just the PSS stuff, is it?

Senator Seselja: It's not superannuation policy. It would cover a lot of administrative parts of superannuation, primarily.

Senator GALLAGHER: Of public sector super?

Senator Seselja: Yes.

Senator GALLAGHER: So they're different. Are you involved in this issue that DFAT's got the court case on, where there's this issue around unpaid super on—

Senator Seselja: I think that comes broadly under the public sector super policy, in responding to that, so that's Minister Cormann.

Senator GALLAGHER: Can you give me an example of what issue you've been involved with, with super?

Senator Seselja: In super, it's often dealing with correspondence and the like, when people are dealing with issues. It's not a large part of my responsibilities.

Senator GALLAGHER: If they've got issues with their public sector super they might come to you, and you deal with the correspondence—

Ms Huxtable: It's, kind of, routine superannuation—

Senator GALLAGHER: Alright. With act of grace payments and debt waivers—we've discussed this before—it's not reported anywhere, is it? Can people give me an update on any issues around what's happening with act of grace payments, how many there have been in the last year? Can you give me a total value? I'm not seeking individuals' names, necessarily, but at a broad, high level.

Mr Danks: Senator, the department published yesterday on transparency.gov.au the last five years worth of acts of grace—

Senator GALLAGHER: Yesterday?

Mr Danks: The reason we published yesterday is that there is a \$14.6 billion debt waiver from the department of education which was tabled in their annual report yesterday. We didn't feel as if we could publish our data until that information had been put in their annual report.

Senator GALLAGHER: Okay. Transparency. Before that, had you been—

Mr Danks: It was an undertaking that Minister Seselja gave to the Senate in the middle of the year.

Senator Seselja: On 15 June, we advised the Senate.

Senator GALLAGHER: Okay.

Ms Huxtable: I keep taking you to transparency.gov.au.

Senator GALLAGHER: I know.

Ms Huxtable: There it is again.

Senator GALLAGHER: It's fine if you know what you're looking for, I think. But sometimes you put things on without telling anyone.

Ms Huxtable: And then we tell you at estimates.

Senator Seselja: If there are specific ones you want to interrogate—

Senator GALLAGHER: Yes, I want to have a look at this. Where do I find it—access publications—find a publication—sorry, the wi-fi here is not particularly good at the moment—

Senator Seselja: It's being fixed, we're told.

Senator GALLAGHER: What's it titled?

Mr Danks: *Decisions made on waivers of Commonwealth debts under s63 and Act of Grace payments under s65*—if you go to the 'Department of Finance' tile and click on 'Documents', it's the first document underneath the little icons.

Senator GALLAGHER: Sorry, colleagues, while I search the internet. No-one has a copy of it? I am struggling to get access to it. Oh, where did that appear from—okay, so this is it? Two pages, is it?

Mr Danks: That's correct. The first page goes to the waiver of Commonwealth debts and the second page goes to the act of grace payments. We've broken it down by year since 2015-16 to 2019-20, and it lists the number of waivers approved and the total value. We've included footnotes to explain some of the significant act of grace and debt waivers made this year. But, as you'd be aware, a lot of these are quite sensitive, a lot of personal information, so the ones we've named there are things the government has actually announced publicly.

Senator GALLAGHER: Aside from this year, which is terribly distorted by that \$14.6 billion debt—can you tell me anything about that, or do I have to go and ask the department of education next week?

Mr Danks: The \$14.682 billion is a waiver of GST historical debts relating to school funding. The GST debts were identified as a technical debt due to legislative issues which have now since been amended.

Senator GALLAGHER: It was GST that hadn't been paid on grants from the Commonwealth to schools or to states?

Mr Danks: I think for the particulars, you might need to ask the department of education next week.

Senator GALLAGHER: Alright.

Ms Huxtable: It was considered in the parliament in terms of the forward fix or sorting out the issue going forward. And this basically manages the back-cast issue and removes what is effectively a technical debt.

Senator GALLAGHER: There has been a massive increase, though, in the value and the number of debts. Minister, I presume you've been well-briefed on all of these in preparation for this being released. It goes from 63 waivers in 2015-16 to 1,475 in 2018-19 and then 4,130 in this last reporting year, with the value growing from just under \$2 million to just under \$61 million. Is there anything that you've learned in putting this together that's given you an understanding of why there's been such a massive increase in the waiver of debts over the last four years?

Senator Seselja: I'll ask the officials to go into some more detail. Obviously, we don't deal with individual ones.

Senator GALLAGHER: No.

Senator Seselja: But obviously some have been publicised where there's been a group of organisations or individuals where there's been a decision taken to waive debts. I might ask Mr Danks to go through the nature of some of that increase from 2015-16 to 2018-19, where there was a noticeable spike.

Mr Danks: I think some of these are quite cyclical in nature. If we go back to 2014-15, that was quite a large year as well. There is no time limit for act of grace payments. So people can put in a claim; there's no statute of limitations. We haven't seen anything that's irregular, apart from this year, as you can see. If you look at 2017-18, they had 438 claims, which were worth more than the 1,475 claims the year after. I'm not sure you can draw too many findings from where the numbers are going.

Senator GALLAGHER: Really? Have you tracked it back further than 2015-16? I think if you plotted that on a graph, you would not get a stable picture.

Mr Danks: I could take on notice what 2014-15 looked like, but, from my recollection, it was significantly more than the \$1.97 million in 2015-16. So, again, this is more of the cyclical nature of these claims. There's no kind of pattern that's emerging from our analysis. Again, if you take the \$14.682 billion out, as well as the housing loans and the waiver powers under COVID-19 for this year, that number gets closer to \$60 million from last year.

Senator GALLAGHER: If you take out all the money waived!

Mr Danks: Well, the irregular claims.

Senator GALLAGHER: Yes. I agree; it's lumpy. So the \$157 million clearly features in the 2019-20 year.

Mr Danks: That's correct.

Ms Huxtable: Yes. We've just tried to draw out in the notes what's in the public domain, where we can provide more clarity. But, as we've talked about before, there's some sensitivity; sometimes these things are public, and we can draw those out. On notice, Mr Danks can seek

to do that with respect to those previous years. At other times, they're subject to privacy and confidentiality requirements.

Senator GALLAGHER: Yes, that's good.

Ms Huxtable: Under the legislative frameworks, there are requirements that need to be met, and there are thresholds in terms of delegations and the like, and those are all worked through in a methodical way.

Senator GALLAGHER: I had a private senator's bill that sought to do a similar thing to this. I think it's good. It's just that it's the first time and when you see the numbers and how it changes, it's a lot of money. Act of grace payments: it's a similar thing where it just grows. Is that affected as well? No, it's no. It's the reimbursement of fees and charges paid by education and training providers.

Mr Danks: That's correct.

Ms Huxtable: That's something different.

Senator GALLAGHER: So this has impacted COVID in the \$45 million.

Mr Danks: That's correct. There are 1,259 claims on the reimbursement of fees and charges for education and training providers and 362 claims on reimbursement of fees paid by commercial fishers for Commonwealth fishing levies.

Senator GALLAGHER: Okay. Once you take those two out, you're left with a much smaller number—a couple of hundred.

Mr Danks: That's correct.

Senator GALLAGHER: Are you able to advise how much of that \$45 million is related to the COVID waiving?

Mr Danks: I'll have to take that notice.

Senator GALLAGHER: Alright. And this is going to be done annually.

Mr Danks: That's correct.

Ms Huxtable: That's correct.

Senator GALLAGHER: But it won't go into your annual report; there will just be a separate report.

Mr Danks: Yes. There will be a separate report on transparency.gov.au each year around this time, especially if there are specific ones you need to call out that have been called out in other agencies annual reports.

Senator GALLAGHER: Okay. In terms of the housing debt, has that request come across your desk at all? Minister, I asked you this last time as well. Treasury told me that they have six or seven applications from states and territories to seek a similar waiver to the one that was given to the Tasmanian government. Has that been referred to you? I think last time we spoke it hadn't been referred to you—

Senator Seselja: Yes.

Senator GALLAGHER: it remained with the Prime Minister or the Treasurer.

Senator Seselja: That hasn't changed; it still hasn't come across my desk.

Senator GALLAGHER: If the Prime Minister or the Treasurer agreed to a waiver would that then come to you to formalise under your powers? Or are they able to do that?

Senator Seselja: It would depend. If I look in terms of some of those other ones: obviously, the larger ones will be handled by Minister Cormann in many cases. As I understand it, and the officials might correct me, the powers—

Senator GALLAGHER: He signed off the Tasmanian one, didn't he?

Senator Seselja: He signed off on the Tasmanian housing. It sits in this portfolio. Obviously, it's delegated to me, but the senior minister can of course take those. So, yes, the housing debt was one that was signed off by Minister Cormann, I think in September 2019.

Senator GALLAGHER: So that matter hasn't come to you officially? I'll ask that in Treasury next week, if that's where it still remains. But thank you for that report—love it, the transparency. It's good. And if there's anything more that you can tell me in a general sense can you take all that on notice?

Mr Danks: Okay, yes.

Senator GALLAGHER: Property: firstly, perhaps, you could tell me what work you're doing, considering that a lot of people have been working from home and, presumably, you're doing some longer-term thinking about what that might mean for any property strategy that you put into place. Can we start there? Mr Hunt?

Mr Jagers: I'm not trying to duck your questions, but Mr Whitford might come to the table—

Senator GALLAGHER: Yes, sure. This is a general question around your leasing strategy and your thinking around what your needs are going forward. I think you have a lot of leases that would be expiring or due to expire relatively soon. Mr Hunt, is that you?

Mr Hunt: It's certainly something that's very much front of mind for us. I might start off talking in general terms and Mr Whitford might have a bit more detail about leases. Obviously, there have been some significant changes to the way property has been used over the relatively short term in response to the COVID crisis. We've done a number of things to help agencies deal with the kinds of changed circumstances they've been operating under. There are quite a number of measures I can talk to you about, if you're interested in those.

Senator GALLAGHER: Yes.

Mr Hunt: Obviously, we monitored the impacts of COVID-19 on Commonwealth owned and leased property very closely, particularly on the non-government tenants of those properties that we own and manage. I think the team really responded quite comprehensively to a range of the issues that emerged. We released a range of additional support and guidance and we really tried to lean in almost as model landlords in our property holdings. So we developed and disseminated a rent-relief policy for SME tenants.

Senator GALLAGHER: Yes, we'll come to that. Senator Ayres has some questions there.

Mr Hunt: Yes. On the broader property side, we developed a range of property-related guidance and support material to assist agencies, both agencies and the property service providers who service the properties—those who provide facility support in those properties.

That guidance went to a whole range of things, including sourcing goods and services under quite constrained circumstances early on. There were special arrangements about cleaning.

We were very mindful that under those property services providers there are some quite potentially vulnerable subcontractors who might be adversely impacted, so we provided some guidance material about considering how those subcontractors could be used to do things that you might not have the capacity to do when the building is full. That means really encouraging entities and service providers to make sure they were deploying those subcontractors—mostly cleaners—to the greatest extent possible to minimise the impact. We provided some advice on business continuity planning and also some advice on developing strategies to re-enter the workforce. So there was a range of things that we did. I think your question went specifically to the policy settings going forwards.

Senator GALLAGHER: That was interesting. I did ask a broad question about COVID response. So I think that is very useful information. But I am also wondering whether you are doing some thinking—I think I read somewhere that there are a number of—you would have leases coming up all the time.

Mr Hunt: There are leases coming up all the time. There are a lot of leases. So there are always some coming up. We are certainly thinking about all of the trends and issues that are at play and what that means for future policy property and future workforce strategy. So I—

Senator GALLAGHER: But is that at a very early stage?

Mr Hunt: It is at the early stage. I think it would be a mistake to jump in and change the policy settings. There is a bunch of kind of moving parts. I think the APSC, the Public Service Commission, is doing some work on future workforce policy. There is work being done on decentralisation and whether the ability to work more flexibly enables different approaches to decentralisation. There is an underlying trend towards greater flexible workplace arrangements, and it is not really clear the extent to which COVID has accelerated that—once we return to more normal operations. The leases that we have typically run over a number of years. If you are going to change settings, it needs to be done in a really considered way.

Senator GALLAGHER: Would it change your approach to, say, getting into really long-term leases? I know there are other reasons you would engage in a long-term lease, but—

Mr Hunt: There are. The fundamental driver of leasing arrangements is normally achieving value for money and there are up-front costs that are amortised over the life of the lease. So there are standard term lengths in office space leasing. The other thing that has become really apparent to us is that offices are not really just workplace; they are also centres of local economies. There are a lot of businesses that exist to service those offices. So we are very mindful that you need to take all of those factors into consideration. So we do want to do a considered approach, taking all of those things into account about whether we need to make any adjustments or changes to our property policies and parameters.

Senator GALLAGHER: Mr Whitfort, is there anything you want to add to that?

Mr Whitfort: I just want to build on what Mr Hunt said, in relation to leases specifically, and just to give you some context. When Commonwealth entities are looking at entering into new leases, we work closely and they work closely with our commercial partners, our strategic property adviser, to ensure we have the understanding of the commercial market, which Mr Hunt referred to. So we work with them to understand the market and, as you

would appreciate, the market is changing, but we also are unclear on where the market is going to go. So what we are doing in terms of leasing is we have a Commonwealth national lease suite is essentially a standard contract suite which is used to give the market an understanding of our terms and conditions that we want to work to and also essentially to give Commonwealth entities a sort of template contract to work with. So, at the moment, to build more flexibility into leases, given the uncertainty going forward, we are looking at developing a number of optional flexibility clauses that will help to provide more flexibility for the Commonwealth. So they might go to a first right of refusal, a rent review at a certain time within the lease period and options to shrink or grow the tenancy at a defined period. So that means giving more flexibility for the Commonwealth to make those changes where we need them, in order to ensure that we get the value for money that Mr Hunt referenced earlier.

Mr Jagers: I might add also to those comprehensive answers. One other point is we are trying to look at what the private sector is doing in this space as well. There is a lot of thinking going on in the private sector about how they are adapting their business models in terms of property post-COVID so that is another area of investigation we are working on in terms of settling some Commonwealth policy. But, as Mr Hunt said, we are trying not to rush to come out with a position too early. We want to see how things re-establish and how the market changes over the next six months or so.

Senator GALLAGHER: And has it changed, in terms of your commercial negotiations—any that you are in now?

Mr Hunt: I am not aware that Finance is involved in any commercial leasing negotiations at the moment.

Senator GALLAGHER: From your annual report—I am trying to go to the areas you are responsible for, Minister—it says 'achieved' under the Commonwealth property initiatives, that they are 'efficient and effective'. It talks about the divestment program. Where would I find more information about the divestment program? It says that 149 properties have been sold, gross proceeds are over \$264.9 million and a further 28 properties are on the program. Is that reported anywhere, or do you have to just wait for them to be advertised individually?

Mr Hunt: This is quite a longstanding program.

Senator GALLAGHER: Yes. I'm not suggesting otherwise.

Mr Hunt: We generally don't discuss in a lot of detail what's on the divestment program before we go to market. There is a range of due diligence and commercial reasons for that. Since 1 January 2015, I understand, around 153 properties have been sold under that program, with gross sale proceeds of around \$265.5 million.

Senator GALLAGHER: So it is a little bit updated from the annual report—\$265.5. Not much, but—

Mr Hunt: Yes, I think there have been a couple of modest properties sold since then.

Senator GALLAGHER: Just timing. Yes. Okay.

Mr Hunt: But there is nowhere that you report, 'This is what we have sold for this price'? Is there anywhere that I can have a look at that or is that information available?

Mr Hunt: I would have to take that on notice. I know that you can see in our financial statements the income from those divestments; I think it is in the cash-flow statement.

Senator GALLAGHER: Yes. But not necessarily the individual—

Mr Hunt: Disaggregated by property, no.

Senator GALLAGHER: And is that because it is secret or it just isn't required to be reported?

Mr Jagers: Well, the properties are sold on the open market and I think there generally are announcements about those, unless there are some commercial sensitivities with them. I think we might just—

Senator GALLAGHER: What do you mean 'announcements'?

Mr Jagers: Quite often when a large sale happens, there will be an announcement by the government, by a minister. There are a number of very small parcels of land that we sell on this divestment strategy. I think there are a further 25 properties on the divestment list at the moment, and some of those are quite small and so you wouldn't expect any significant media announcement about those. But we will take on notice where the details of those sale prices are recorded, if they are made public, and how.

Senator GALLAGHER: Are you selling any for 10 times its value? Have you had any good deals?

Mr Jagers: We enter market processes for the divestments of property.

Senator GALLAGHER: Could you take on notice whether you are able to tell me what is on the divestment list? Or have you already said you're not?

Mr Hunt: Generally we don't disclose what we are planning to divest for a number of due diligence and commercial-in-confidence reasons. Sometimes there are existing tenants or occupants of that land. There is a number of processes that we have to go through to get the property into a situation where we, as Mr Jagers said, generally go to the open market.

Senator GALLAGHER: I might put some questions on notice and then you work out whether or not you are able to give us any more information about that.

Mr Hunt: Absolutely.

Senator GALLAGHER: It also references the Australian government office occupancy report, which was published.

Mr Hunt: It was.

Senator GALLAGHER: My understanding is, in your leased office footprint, you are trying to go from 17.1 square metres to a 14 square metre target.

Mr Hunt: That's correct.

Senator GALLAGHER: It says with a 'continued trajectory towards the 14 square metre mark'.

Mr Hunt: That's correct.

Senator GALLAGHER: It looks like it went up slightly this year, not by much, but it looks like it went up. My question is: do you really think it is a continued trajectory towards 14 square metre?

Mr Hunt: I do. When we look back, the occupational density was 19.2 square metres in 2014. It has consistently declined over the period from 2014 to 2019. There are a number of

factors that play into the measure at a point of time. It is a point-of-time measure. So if you have got an agency that is moving from one lease to another, technically both of those leases would be captured, which might at that point in time increase the amount of vacancy.

Senator GALLAGHER: So new leases are on the 14 square metre rule. Is that right?

Mr Hunt: The expectation is that new leases are. So what we are seeing over time is old leases being phased out and the new ones are bringing down the occupational density. The other bit of statistical noise that has affected the number this year is that the data that we collect relates to leases of over 500 square metres of used office space. Our analysis of the data this year suggests that there are a number of properties that have reorganised the difference between communal space and office space and that has tipped them over the 500 square metres, so they have come into the report. It is a combination of those transition factors and some of those smaller, older leases coming in due to rearranging how they use the footprint has brought a bit of noise into the data. We don't see that as a reversal of the trend. The difference of space is about the size of a piece of A4 paper between last year and this year.

Senator GALLAGHER: Is that the 31.6 per cent to the 29.6?

Mr Hunt: No, this is the difference between the 16 square metres and the 16.1.

Senator GALLAGHER: Yes. Which, as a percentage, is the others. So it is a mix of timing and adjustments to existing leases?

Mr Hunt: That's right, and the fact that the data is point-in-time, so a lot of things happening around that point in time can affect the data at that time.

Senator GALLAGHER: Again, this might be one where you have got fingers everywhere, but no responsibility: as Finance, do you see the leases to make sure that they are abiding by the occupational density target? Or is it, again, one where Finance provides the guidance, says 'this is the arrangement' and it is over to the agencies to implement?

Mr Hunt: Mr Whitfort might be able to provide a bit more detail, but we do take a role in trying to work with agencies to get the most efficient outcome. Mr Whitfort might be able to provide a bit more about that strategic role that we play.

Senator GALLAGHER: Do they have to get Finance approval for their lease?

Mr Whitfort: When entities are entering into new leases, there is a lease endorsement process. For leases between \$2 million and \$30 million over whole-of-life costs, they are notified to Finance. Leases above \$30 million go to the minister for endorsement. It is still the accountable authority that makes the decision, but the notifications come to us and, again, it is informed by the work with the property adviser.

Senator GALLAGHER: Say you get a lease that is in that \$2 million to \$30 million range and it doesn't meet your framework or target, do you send it back? Is there a veto right for Finance?

Mr Whitfort: We will work with the entity and with their property service provider and strategic property adviser to understand if there are any specific operational needs, which means those requirements may not be able to be met. But as Mr Hunt said, the expectation is that entities do work towards that 14 square metres to achieve that 14 square metres with new leases and then it is a matter for the accountable authority, ultimately, in approving that lease.

Ms Huxtable: There is quite a formal process of the accountable authority writing to me and either it is within the thresholds that Mr Whitfort mentioned and I would write back, or it is considered by the minister and then I write back, based on the minister's endorsement.

Senator GALLAGHER: So you have got more of an interventionist role than you have under the Lands Acquisition Act?

Ms Huxtable: There is definitely a process that includes exchange of correspondence for those—

Senator GALLAGHER: And for your involvement between \$2 million and \$30 million, which might have been useful with the Leppington Triangle.

Ms Huxtable: Even when the minister endorses it, I am still the one who writes back to the secretary advising them that the minister has endorsed it.

Mr Jagers: This is not generally a tussle between us and the agency around the average square metreage. Most agencies with modern fit-outs and with different kinds of building floor plates are doing better than that 14 square metre average because they can just design a more efficient space in a new fit-out. The leases that are coming through to us, as a general comment, aren't exceeding that 14 square metre rule.

Senator GALLAGHER: It is still not clear if you would say 'no' to them. Have you said no to any leases because you thought they were unreasonable or they were too extravagant or they don't meet the rules?

Mr Jagers: We would go back to agencies where they clearly weren't meeting the requirements of the policy and have discussions, but, as I am indicating, it is quite rare they are not meeting those requirements because everyone understands what the requirements are and they are working towards achieving them. The team works proactively with the agencies.

Senator GALLAGHER: My question is whether you have said no. I hear what you are saying, but has Finance vetoed any leases?

Mr Jagers: It is more a process of saying, 'You might need to work a bit harder on this and come back with an update.'

Ms Huxtable: If it gets to the point where it is signed off, there has been a process of reaching agreement leading up to that point.

Mr Hunt: That's right. They often work with us before finalising what they are going to put up. So we have quite an active role here, quite a strategic active role.

Senator GALLAGHER: I think we'll come back to the long-term strategy once you've done a bit more thinking around that. Operation Tetris—how's that going?

Mr Hunt: My understanding is that Operation Tetris wound up in 2018.

Senator GALLAGHER: So it's over?

Mr Hunt: Operation Tetris is, and that was when some new coordinated property service provider arrangements came into place. Operation Tetris transitioned into the property services coordinated procurement arrangements.

Senator GALLAGHER: At the time, Operation Tetris was said to have saved all this money and achieved all these results. I think the audit office had a view that the savings reported at the time were not supported by a sound methodology, but are you saying to me

that you've taken what you learnt from Operation Tetris and now it's part of standard operating procedure in terms of how you utilise space and the vacancy rate?

Mr Hunt: Operation Tetris was largely about taking more of a whole-of-government view, about helping agencies that were in the market for space to first access whether there was available space in buildings.

Senator GALLAGHER: To look at what you had available—yes, I understand.

Mr Hunt: I guess the DNA of Tetris has been built into the more strategic role that we're now trying to take, both through these coordinated property services arrangements and through the engagement of a strategic property adviser, who works with agencies on developing leasing strategies, with one eye on the agency need and one eye on the whole-of-government need. The intent of Tetris is now built into a much more strategic approach that we're taking.

Ms Huxtable: I'd like to add in that regard that the ANAO report did find that Operation Tetris had enabled better use of existing space and that the approach to the establishment of the coordinated arrangements was sound.

Senator GALLAGHER: I think it was around the reported savings associated with the project.

Ms Huxtable: I think we responded to a number of questions at the time, but I can't necessarily gather that in my head right now.

Senator GALLAGHER: We did have a long chat about them.

Mr Hunt: I think we responded to a question on notice in October last year, spelling out the saves under Tetris over the period that covered the leases that didn't proceed.

Senator GALLAGHER: It was a particular point in time, and there was a lot of upheaval in the Public Service as well, from memory, where the change of government occurred and there were different policies and priorities. There was, I think, more opportunity then than you would perhaps have now to move people around with the vacancy rates. I noticed that, in the media release, when Minister Cormann was talking about how successful it had been, there was a work point vacancy rate of 13.8 per cent. My understanding is that the rate now is 15.2 per cent. Are there any worries there, in terms of those results?

Mr Whitfort: As these new, more efficient leases come online, entities are also allowing a bit more space for work points. Again, this comes back to the strategic property adviser and the Commonwealth leasing strategy. Entities might take on slightly larger leases, but because we've got the strategic property adviser looking at the different leasing needs of different entities in a single location, they can develop a strategy which means you might then co-locate entities, or have two or three or four entities approach the market at the same time, to make the best of the Commonwealth's buying power. So, even though the figure might look—again, point in time and year on year—that there are more vacant workpoints than there were previously, and that the rate is different, the overall Commonwealth leasing strategy, and those things we talked about already, enables us to make better use of that space than, say, what might have been done prior to Operation Tetris.

Senator GALLAGHER: Do you have a role in the decentralisation strategy as well? Who is managing that?

Mr Hunt: That is the infrastructure department.

Senator GALLAGHER: There is not some intergovernmental team that meets—

Mr Hunt: I am not aware of a formal IDC that we are involved in—my part of the department. But we certainly have discussions with them periodically.

Senator GALLAGHER: I will follow that up at another time. Before you go, has anyone come back on the market research? Have you had any advice on that?

Dr Helgeby: We have clarified some of the research work—just remind us all that we are talking about two different campaigns, one, which I will call the Economic Response Campaign, which has also has been referred to earlier as the 'COVID campaign'. And then one that is currently running, which I will refer to as the Economic Recovery Campaign. Both are in the Treasury portfolio. Resolve did undertake work for the Economic Response Campaign—the campaign that has concluded. It was one input to that. There was also work undertaken for the new campaign of which there were multiple inputs. So, previous work done by Where To was an input to that campaign. The work I have referred to, undertaken for the Economic Response Campaign, fed into that.

Senator GALLAGHER: That is the Resolve work?

Dr Helgeby: Resolve work, which had been undertaken for Economic Response, then also fed into Economic Recovery, and Where To work also fed into the new campaign called Economic Recovery. The ICC saw material from both of those organisations on 30 September. There was additional work undertaken for Economic Recovery by Kantar Research. So there were multiple inputs to the Economic Recovery Plan.

Senator GALLAGHER: And they would all be contracts that I could look at on AusTender, I would imagine?

Dr Helgeby: They are all contracts that the Treasury can help you with, yes.

Senator GALLAGHER: Thank you very much. I do appreciate your coming back on that.

Senator AYRES: Likewise. Was the Resolve work on the comeback campaign, or whatever it's called, just the work from the Treasury campaign or did it also involve the work that Mr Reid did for PM&C?

Dr Helgeby: I don't know about the work—

Senator AYRES: It was just work—

Dr Helgeby: The point I'm wanting to make is that if you are referring to the economic recovery campaign, the one underway now, my understanding is that Resolve has not undertaken any work for that campaign.

Senator GALLAGHER: But it fed into the campaign.

Dr Helgeby: But it was work undertaken for the earlier campaign that became information—

Senator GALLAGHER: That was used for both. So it's been used for both campaigns but it was commissioned for the economic response?

Dr Helgeby: I don't know if it was commissioned for it, but it was—

Senator GALLAGHER: That was its original use.

Dr Helgeby: It was relevant to the economic response campaign and it provided context for the future campaign.

Senator AYRES: Thank you. That is helpful. On Operation Tetris, before I get started on some other rent relief measures, the claim was \$300 million savings, wasn't it? What do you say it actually was? Ten Leppington Triangles? What was the actual saving?

Mr Hunt: I think we responded to a question on notice from you in October last year that provided a table. It was F039. We provided a table of the \$322.7 million over the period covered by the lease changes. I think it related to 17 leases over that time. They're spelt out and the breakdown each year is in that response to that question on notice.

Senator AYRES: Thank you. On the rent relief measure that was announced by the government that would be implemented by all non-corporate entities across the Commonwealth, what government imposed restrictions are to be lifted in order for the policy to no longer be in place?

Mr Hunt: The minister's media release says the rent relief will continue until the Australian government lifts restrictions that are currently in place to slow the spread of COVID-19. We're mostly looking at social distancing restrictions, is my understanding.

Senator AYRES: So it's really open ended, absent a vaccine?

Mr Hunt: At this stage the policy remains in place. I think we'll continue to reassess it in consultation with the minister as we adjust to a life either with COVID or without it.

Senator AYRES: Who were the 11 occupants that Finance provided rent relief to?

Mr Hunt: I'm not sure I have that with me explicitly. It was across a number of our tenancies. Let me see if I've got it in my documentation.

Senator AYRES: Was it reducing rent to zero or was it—

Mr Hunt: It's reducing rent to zero for small and medium enterprises and not-for-profits. Across the Commonwealth, my understanding is that it has provided rent relief for around 350 organisations.

Senator AYRES: Mine says 345. Where were those located?

Mr Hunt: They're all over the Commonwealth.

Senator AYRES: All over the country?

Mr Hunt: Yes. It's quite a diverse footprint.

Senator AYRES: Are you able to provide on notice a list of those—

Mr Hunt: The 11 Finance properties?

Senator AYRES: There are 11 rent relief properties: 85 that had rent reduced to zero and 345 that had some additional support, I think—that's right, isn't it?

Mr Hunt: Where are you reading that from, Senator?

Senator AYRES: It is in the annual report—on page 35, I think.

Mr Hunt: Certainly we can take on notice the 11 occupants. They're in Finance-owned—

Senator AYRES: They're in your buildings, yes.

Mr Hunt: Yes. So, we have those. On the broader, other non-corporate entities, I think they've advised us that they've provided rent relief to ex-organisations, but not necessarily—

Senator AYRES: But not who they are.

Mr Hunt: Not all of the detail.

Senator AYRES: Okay. Well, perhaps you can provide us on notice who the 11 Finance occupants are.

Mr Hunt: Certainly.

Senator AYRES: I want to move finally to business optimisation. The annual report says, 'The business optimisation function, which implemented 15 automatons'—which is a—

Senator Seselja: Are you picking up a typo there, Senator Ayres?

Senator AYRES: I was quite worried!

Ms Huxtable: It says '15 automations'.

Senator AYRES: Oh—they typo is in my brief.

Ms Huxtable: I don't think it's a typo in the annual report. If you've got detailed questions on this—

Senator AYRES: I might just provide them on notice.

Ms Huxtable: Could you? This is all in the assistant minister's area.

Senator AYRES: Certainly.

Senator GALLAGHER: So, they're not in this area?

Ms Huxtable: No.

Senator GALLAGHER: Okay.

Ms Huxtable: This is more the corporate—

Senator GALLAGHER: Well, I think we've done our questions on this area.

CHAIR: Then, with the committee's agreement—given that we're a little bit ahead of schedule—we'll go on the dinner break now, and come back a little bit early with AEC, if they're available. I thank the departmental officials, who are now dismissed.

Proceedings suspended from 18:07 to 19:45

Australian Electoral Commission

[19:45]

CHAIR: I welcome the Electoral Commissioner, Mr Tom Rogers, and officers of the Electoral Commission. Mr Rogers, do you wish to make an opening statement?

Mr Rogers: No, thank you, Senator.

CHAIR: Okay. Senator Farrell.

Senator FARRELL: Mr Rogers, I've been asking a number of questions of other departments about an investigation that took place in relation to allegations of branch stacking by taxpayer funded staff in the offices of Michael Sukkar and Kevin Andrews. Are you aware of those allegations, and have you caught up with those allegations?

Mr Rogers: I'm aware because someone raised them with me today because they heard them being raised here.

Senator FARRELL: Somebody in your office?

Mr Rogers: On my staff.

Senator FARRELL: They were following estimates?

Mr Rogers: They were riveted.

Senator FARRELL: Riveted! Oh, well! There we go. So you're fully apprised—

Mr Rogers: Broadly aware.

Senator FARRELL: You're broadly aware of the issues. We didn't get very far on the topic, I have to admit. There are a number of reports that these particular staff were involved in party membership recruitment, branch stacking and the recruitment of fake members. On 23 August, *The Sydney Morning Herald* reported that the political operation recruited dozens of Liberal Party members and added them to seats that were often nowhere near their real addresses. In one case, a member lived 50 kilometres from the electorate. My first question to you is: would providing fake addresses on membership forms be a breach of the Commonwealth Electoral Act?

Mr Rogers: If they were validly enrolled—I'm looking to the chief legal officer—there would be no offence against the Electoral Act, if this was a matter for the party itself. It might be something to do, potentially, with the Crimes Act. I'm not sure.

Mr Johnson: That wouldn't be an offence. It would only be an offence if it was doing something with enrolment on the Commonwealth electoral roll.

Mr Rogers: If they had submitted—using your term, Senator—fake enrolment forms, that would be a different matter.

Senator FARRELL: Here it seems they were faking their membership cards of the Liberal Party, and that would not be an offence, as far as you are aware, under the Commonwealth Electoral Act?

Mr Rogers: Under the Electoral Act? There would be no offence there.

Senator FARRELL: What if they were then following up with a fake electoral enrolment?

Mr Rogers: That's a different matter.

Senator FARRELL: What's the circumstance there?

Mr Rogers: I might hand over to the chief legal officer to talk about that.

Mr Johnson: The integrity of the Commonwealth electoral roll is one of the priorities of AEC, so we have extensive screening and checking processes for checking the validity of all 16 million plus Australian citizens who are on the roll, and we take that very seriously.

Mr Rogers: Just to target this, I'm talking about the offence that would be committed if someone signed an enrolment form.

Mr Johnson: It would be fraudulent, under the crimes code, to put in a fraudulent enrolment claim.

Senator FARRELL: How many times would you typically prosecute somebody in an electoral cycle for that sort of offence?

Mr Johnson: We have a program where we're continually checking enrolments and investigating anomalies in enrolment forms. I can't give you the precise number, but, through

the year, we liaise with AFP on a number of enrolments and refer a number of matters to the AFP, as they have to then decide whether the matter warrants prosecution and pass it to the—

Senator FARRELL: And people, in fact, do get prosecuted for this sort of offence?

Mr Rogers: Probably the most celebrated relatively recent case would be—I'm trying to think of the chap's name. I think it's Salim Mehajer from Sydney.

Mr Johnson: Yes, that's right.

Mr Rogers: I think he actually received a custodial sentence as a result of that. I think his sister might have been charged as well, as part of that process. From memory—and I can check this—that was a referral from us to the AFP. It's worthwhile reflecting that that was a highly complex investigation that took a number of years, from memory, to bring to fruition, so it's not a simple matter. It really did take quite a considerable period of time.

Senator FARRELL: Obviously, your staff have talked about the questions I asked earlier in the day. Have you been consulted either by the Department of Finance or the law firm engaged to conduct the inquiry into Mr Sukkar and Mr Andrews—a law firm called Ashurst—as to whether there were any breaches of the Electoral Act?

Mr Rogers: We've not been approached at all.

Senator FARRELL: As the department responsible for these sorts of issues, would you have expected either the department or the law firm to have made contact?

Mr Rogers: Not necessarily. Again, if it were purely a matter of something to do with an internal party matter that did not involve some sort of allegation of fake enrolments, I wouldn't have expected them to talk to us about that.

Senator FARRELL: Have you been conducting any investigations of your own volition in respect of—

Mr Rogers: Into that matter?

Senator FARRELL: Yes.

Mr Rogers: As you know, Senator, normally we don't comment on ongoing investigations, but I can tell you that, in this case, we haven't been approached and we're not looking at it.

Senator FARRELL: Thank you. I think Senator Ayres had a couple of questions.

Senator AYRES: Commissioner, how is our preparation going for the next general election?

Mr Rogers: Pretty well, and I always hesitate to say that, because it leads people to believe that somehow we have inside knowledge of when those events are. For the record, I say, in all seriousness, that I don't have that inside knowledge. We're just doing general preparation, but—

Senator AYRES: Of course.

Mr Rogers: I might use the opportunity—

Senator FARRELL: Sorry to interrupt, but the Prime Minister's made an announcement that we're going full term, hasn't he? Didn't he do that earlier in the week?

Mr Rogers: There was a lot of public information, Senator, and we—

Senator FARRELL: You spotted that?

Mr Rogers: We spot that information and we use that information as we prepare for the election. It does give me an opportunity to perhaps point out that the Joint Standing Committee on Electoral Matters, I think, is due to have a hearing—it might even be later this month—on conducting an election in times of an emergency, and there are some specific issues that we're grappling with. If we look at our experience in the last by-election that we did for Eden-Monaro, it's going to be more expensive if there are pandemic restrictions in place. It's also likely to lead, potentially, to a slower count, if those restrictions are still in place, and, potentially, it might also impact on queuing. So we're doing a lot of work at the moment thinking through those issues to make sure that our service delivery offering is going to be fit for purpose and deliver a swift result.

Senator AYRES: The footage of those long queues in the US election are pretty horrifying.

Mr Rogers: I read one story of an 11-hour queue; I think that is just shocking.

Senator AYRES: So what are the considerations, if there's a ballot, with social distancing requirements and all the other possible complications? What is the range of issues that you're considering?

Mr Rogers: If I just extrapolate from our experience at the by-election, first of all, there would be a huge requirement for the purchase of personal protective equipment, which is expensive and difficult to get, particularly if everyone else is trying to get it as well. Maintaining social distancing in queuing and also a reduced number of polling locations within a polling place will have an impact. Of course, then there's the impact on the count itself, with reduced numbers of scrutineers being allowed in and a number of other restrictions—making sure that we are training people accordingly. The list is a bit endless. The other thing which is a little new for us is as we discovered in Eden-Monaro and are now discovering in Groom, we need to liaise with state authorities far more than we've ever done before—local health authorities, the chief medical officer in each state, police, and education departments for the use of schools. There are a range of issues we found to be complex. That's why we're working on that right now.

Senator AYRES: In the ACT election, the ACT electoral commission emailed people encouraging them to vote early, so that is voter communication stuff during the course of the—

Mr Rogers: Early voting is different in every jurisdiction, which is a little complex because it does confuse voters. In the ACT and, I think, South Australia, they actually encourage early voting. They say flat out, 'We encourage you to go and vote early,' and I think the statistics for the ACT election were that it might have been that as many as 75 per cent of the electorate had voted before the day of the election. We don't do that. The Electoral Act doesn't allow for that. We point out what people's options are to vote, but we also put out the criteria, and we ask people to self-identify against those criteria when they turn up to vote, so it's a very different approach. I would point out—

Senator AYRES: So you wouldn't describe it as encouraging early voting?

Mr Rogers: No. If there is a pandemic or if there are pandemic related restrictions, we'll be encouraging people to plan their vote, which is a slightly different thing. That's what we

did at Eden-Monaro. That's about thinking about the various options that you've got as to how you will cast that ballot.

Senator AYRES: Have preparations begun for securing venues, given the circumstances?

Mr Rogers: We are already looking at venues, indeed.

Senator AYRES: And presumably more early voting centres as well?

Mr Rogers: That's slightly more complex because we normally get the pre-poll early voting centres closer to the event. It's a bit hard for us to predict that far out exactly what's going on. We do start to progressively procure the counting premises. That takes a lot longer, and normally we have to sign longer leases for those premises, but, with the pre-poll voting centres themselves, that's a little bit difficult. We do have some service standards that we developed before the last election, I think, to try and give people equity of access. We had an issue previously where we had some areas where we just didn't have enough pre-poll voting centres, and some people had to travel a fair distance. In 2016, we developed some standards, and we've tried to make that consistent across Australia, but we're doing as much as we can to provide equity of access.

Senator AYRES: I want to come back to pre-poll voting in a moment, but, given these issues, how are you going about the process of budgeting for election costs?

Mr Rogers: We work very closely with the Department of Finance on the election costs. I might just perhaps talk about that for a minute. There's a little structural issue that we're trying to deal with at the moment. The way we receive money—I'm paraphrasing a little—some is our business-as-usual funding, and then we receive election funding. It can occasionally be hard to delineate between those two because we run elections and sometimes some of the things we need to do have a long lead time. They may not be proximate to the election, but we're required to do those early to prepare for the election. We're currently going through a funding review with the Department of Finance, and we're looking at the quantum of funding that we receive as business-as-usual funding but also the structural issue around when we can access the funding for the election. What we do find is that with the current system—and probably Finance staff who are watching this will spit out their tea—it is hard for us to predict more than three years out for an event exactly what the costs will be at that event. We have found that there's been a rampant increase in the range of costs that hadn't been expected—leasing costs, staffing costs, and the costs from Australia Post have risen dramatically for us. As you know, we use postal services for a whole range of issues, including sending out household information and postal vote applications. And COVID itself—if there are pandemic related restrictions in place, it would be a huge impost on the election. So, with all of those things, it's hard to predict some years out from the event, when the election budget is cast, exactly what it will be.

Senator AYRES: Are there some costs that become higher if you have an early election? If you had a 2021 election or a 2022 election, what impact would that have on costs?

Mr Rogers: An early election doesn't necessarily lead to a huge increase in costs, but the timing of the election does. For example, if you have—I might correct myself here later on—an election at the time of the school holidays, it can be more expensive for us to run that event. It would be harder to get staff, for example, because people are travelling. We have to do more predicting of where people will travel to, because we have to have extra ballot papers

in those places, and it becomes more complex. There are also differences in costs, believe it or not, between a winter and a summer election. If it's a winter election, we have to provide more polling centres in the ski fields—all of these things sound very minor, but when you extrapolate them out, it actually has a big impact on the cost.

Senator AYRES: You have your static costs—I think you called them something else—and costs are assigned to each election, presumably if you have less time you've got to truncate the process of preparation. Are there additional costs built in with that?

Mr Rogers: Less time normally means more cost for specific projects. If we have to rush a specific project, it can increase the cost. I know you'll know this, Senator, but we take our role of being ready to deliver the election pretty seriously, so we do try to maintain a level of readiness. What we can't do, because it would make no sense, is to be completely ready for election delivery at any one point in time, because the cost of that would be insane. So we try to make a judgement call on exactly how ready we can be. We've got a whole framework that we use—an election-ready framework—and we've developed that over some years. It's a fairly sophisticated tool for us to be able to look at those costs and manage them in a reasonable way.

Senator AYRES: Do you have a ballpark figure, within the tens of millions, for how much an election would cost in 2021?

Mr Rogers: The cost of the last election, I think, was about \$300 million. That doesn't include funding for political parties. If we included the funding for political parties—I can correct these figures—it might have been about another \$70 million. So we're looking at around \$370 million or \$380 million. Our prediction—it is a very rough prediction and it would have to be verified—of the costs of a COVID-like election might add as much as another \$30 million on top of that. It could be more. Again, I mentioned earlier on about the requirement to purchase protective equipment and a range of other measures that we'd need to put in place, so it could be as much as another \$30 million on top.

Senator AYRES: Would you be able to provide me, on notice, with as much precision as is available at the moment, what an election in 2021 and 2022 would cost? I'd just like to see if there's a difference between those two propositions.

Mr Rogers: Sure. To be fair, pandemic-related costs would be the big issue between those two things.

Senator AYRES: Yes, it's the extent to which the pandemic is still in operation.

Mr Rogers: That's correct.

Senator AYRES: Does the cost increase if it's a double-dissolution election?

Mr Rogers: There are some sunk costs in any case—

Senator AYRES: Bigger sheets of paper, I suppose—

Mr Rogers: Yes, that's exactly right. But it's something we're set up for. There are some sunk costs. We'll have the same number of polling places and the same number of staff. But the processing of the Senate papers might be slightly more expensive, and some other issues like that.

Senator AYRES: So the costs associated with a likely sort of COVID election scenario, with a longer election period, more postal votes, more safety messaging, social distancing,

creating additional venues, potentially longer periods of pre-polling—that's more important in the year in which the election's held, but I suppose if we don't have a vaccine in 2021 and we have an election in 2021 then there will be higher cost.

Mr Rogers: It could be a factor. There's another issue, if I may opine on that too. Ms White might also correct me here. Previously we were seeing a trend of postal votes remaining static and pre-poll going through the roof, if we track back through the last few elections. If we look at Eden-Monaro, colloquially, pre-poll was kind of static—there was a little bit of an increase—but postal votes went through the roof, for obvious reasons to do with the pandemic. So if there are still the same sorts of measures in place—who knows—I'm suspecting that that trend that we saw previously, with the steady increase of pre-poll and postal remaining static, might kind of flip a bit, and postal might start to increase dramatically.

Senator AYRES: Is that the case for regional electorates generally—that there's a different approach in pre-poll and postal?

Mr Rogers: Not necessarily. I actually have the stats here, and I'll look at those in a moment. I think you might find that, overall—we're about to do Groom, and we'll check on what happens with Groom. At the last event, from memory, I think we got back around a million postal votes or thereabouts. So, yes, it's a big thing. If that increases dramatically, that will also have an impact on cost, I guess, and processing times too.

Senator AYRES: While we're on Eden-Monaro, the AEC counted pre-poll votes on the night. Was that the first time that had occurred?

Mr Rogers: I think we've counted them previously.

Ms White: Correct. We have counted them previously on the night.

Senator AYRES: Often? Or just in a by-election context?

Ms White: No, we counted a portion through the federal event last time as well.

Mr Rogers: We are trying to do as many as we possibly can on the night. One of the issues with citizens—and I absolutely understand it—is that, even though they might have voted by pencil and paper at 5 pm, at five minutes past 6 pm there's this demand: 'Where's the result? There must be something wrong.' So the sooner we can provide that result, the better it is for us and the better it is for the reputation of the electoral system. It's been interesting to see some of the commentary in the US election about that issue of the delay in the count. So we are trying to—the best we can—do as many votes as we can on the night.

Senator AYRES: It's also better for those of us who are allocated as campaign spokespeople who have to stand out the front of a group of cameras.

Mr Rogers: Yes.

Senator AYRES: There were mixed reports from that count that evening that the pre-poll centre was—there were some challenges in the voting process. Has there been a review of what went well and what went not so well in that election and the count on the night?

Mr Rogers: Yes. We've done a lessons learned process for that. Given that's our first election in a pandemic for many, many years, I think we did very well. I think citizens reacted very well to the service we provided. The count on the night was crowded, at the limits of being COVID safe. We had a number of scrutineers; we didn't expect the large numbers of

scrutineers that turned up to turn up. The scrutineers behaved very well. Our staff behaved very well. People adhered to the—

Senator AYRES: All of the scrutineers? Or were the Liberal scrutineers more badly behaved than the—

Mr Rogers: All scrutineers behaved well. Everyone followed the directions we had in place. There were no rogues that came in and said, 'Sod you; we're not going to do that.' It was well conducted. We always struggle, though, to get the sort of space we'd like. Because we're hostage to the timing of the election, for those count centres, we have to find what's available broadly within the region, so they're never exactly what you want. They are sometimes a compromise. That was certainly the case that night. But, by and large, it went fairly well.

Senator AYRES: I'm not sure I'd be an advocate for this proposition, but has there been any consideration given to counting pre-poll votes prior to the day?

Mr Rogers: We would like to do some things differently with pre-poll declaration votes so that, by 6 pm on the evening, they're effectively ready to be counted. We could speed up the process. We have made some submissions to the joint standing committee about that issue. It's a way of dealing with it.

Senator AYRES: Are there any other things that you'd do differently, given the experience there?

Ms White: As we've said, we've got a public submission to the joint standing committee on the ways that we'd have a look at that, which outlines what we would do. Whatever we can do to make the preliminary scrutiny earlier would benefit us to be able to count these earlier. The volumes do increase and are increasing, and there are only so many staff nationally that we can get to make an alternative counting within a work health and safety time frame.

Mr Rogers: The big picture of that is that the more votes that are in envelopes—either postal votes or pre-poll votes—the harder it is for us to complete the kind of count we do on the night so people get a broad indication of government on the evening. That's why we'd like to do some stuff differently eventually with pre-poll—to be ready to count them at 6 pm—so that Australians can go to bed kind of knowing where things sit without having to wait for some time after the event.

Senator AYRES: I have a few more questions about the Eden-Monaro by-election. On what date did the AEC first become aware of the series of false and malicious spam emails that were circulating relating to the Labor candidate?

Mr Johnson: What we rely very much on with those spam emails are complaints to the AEC. I would have to look up the precise date, but it was probably on or around the issue of the writ for Eden-Monaro, which was at the end of May.

Senator AYRES: Were the complaints what made you first aware of it? There was no other—

Mr Johnson: Yes, that's right.

Senator AYRES: What initial steps did you take to investigate the emails?

Mr Johnson: We had established working with Finance and the Electoral Integrity Assurance Taskforce, and that's made up with representatives from other Commonwealth law enforcement and security agencies. We referred the spam emails to that task force.

Mr Rogers: For the record: the task force has now been stood up. We stood it up for the first time federally for the 2019 election, and it's become a permanent feature for federal electoral events—by-elections and federal elections—and for various state elections if the state election body requests the assistance of the Electoral Integrity Assurance Taskforce.

Senator AYRES: Can you tell me who's on the task force?

Mr Rogers: Yes, I can. I'll ask someone to drag forward that piece of information for me, but, in essence, it's co-chaired by the Department of Finance and by the AEC. It has on it us; the Department of Finance; the Department of the Prime Minister and Cabinet; the Department of Infrastructure, Transport, Regional Development and Communications; the Attorney-General's Department; the Department of Home Affairs and various agencies within that; and the Australian Federal Police.

Senator AYRES: Who took the decision to refer it to the Electoral Integrity Assurance Taskforce?

Mr Johnson: That was my decision.

Senator AYRES: What date did you refer it?

Mr Johnson: I'll have to take the actual date on notice. It depends on when we received it, but it was around the end of May or the start of June when we started receiving the complaints.

Senator AYRES: I think I have a statement from the AEC that says that you initially referred the matter to the Electoral Integrity Assurance Taskforce for consideration on 10 June.

Mr Johnson: That sounds about right.

Senator AYRES: So you'll come back to me about the date the complaint was received?

Mr Johnson: Yes, we can take that on notice.

Senator AYRES: There's a gap there of a week to a fortnight. What accounts for that?

Mr Johnson: We'll take on notice when the first complaint was received.

Senator AYRES: Sure. When you provide us on notice with the dates then we'll know what the gap was. What I'm asking is: what was the AEC doing during that period?

Ms White: We did not take a week to refer this, so we'll come back with confirmed dates.

Mr Rogers: I'll be highly surprised if that's the case. We were very alert to that issue. If there was any form of gap—24 hours or something—it simply would have been that we were looking at the issue to make sure it was an issue worthy of being referred and that there was no—

Senator AYRES: So you think it's in the order of 24 hours. You'll come back to us about that?

Mr Rogers: Yes.

Senator AYRES: I'm not trying to make that hard for you. But what I would like to know is, if there was a gap longer than that—

Mr Rogers: Why there was that gap.

Senator AYRES: I'd be interested to know why that gap was there. Was there a process that you were engaged in? It doesn't sound like it. Did you advise the candidates? Who became aware of the fact that it had been referred?

Mr Johnson: No, we didn't advise the candidates. It was just referred to the task force.

Senator AYRES: When did you become aware that the AFP was investigating? Was that as a consequence of you referring it to the task force?

Mr Johnson: Yes, that's right.

Senator AYRES: When did you first issue a public statement? I've got the material here. It says it was on 3 July. Are you going to tell me you'll come back to me on notice about that too?

Mr Johnson: The AFP statement was 3 July, when they identified and charged someone for sending spam emails.

Senator AYRES: This is updated on 3 July, I think. How many voters had cast their vote by that date, when there was a public announcement about the emails?

Mr Rogers: We'd certainly have to take that on notice.

Ms White: We'll take it on notice.

Senator AYRES: A significant number of voters, though, presumably.

Mr Rogers: I'm not sure. We'll absolutely take that on notice.

Senator AYRES: I guess the question is: on reflection, do you think you should have told voters sooner that there was a false and malicious email campaign? It's quite distinct from any other kind of activity. You're clear it's a concerted effort to—

Mr Rogers: I'm disadvantaged by not having the information in front of me, but let me make a couple of broad statements. First of all, when we referred that to the task force, and the AFP indicated that they were going to investigate it, it was very difficult for us to make any form of public announcement without then compromising what could become an investigation. The second thing is, I think we did make some sort of media announcement—

Ms White: As soon as we could.

Mr Rogers: as soon as we could, about where that was heading. The fact that we set up the task force—we were very keen on referring these matters to the task force—is evidence that we try and take that as seriously as possible. I do notice—I'm not sure how long the deputy commissioner has been sitting up on that screen, there, but I wonder if the deputy commissioner might have something to add to that process?

CHAIR: I believe we have had some technical issues connecting.

Mr Rogers: It looks like we still do, so the deputy commissioner doesn't have anything to add!

Mr Johnson: I would add that the reason we referred it was there was no actual breach. The spam emails weren't breaching the Commonwealth Electoral Act in any way. The

Electoral Act doesn't regulate truth in electoral communications, so there was no offence there. So it had to be referring it to the task force and for the AFP to investigate for offences of other crimes. That was why we took that action.

Senator AYRES: It's a problem, though, isn't it? I accept it might be a problem that you don't have the power to deal with it properly, but on 10 June you refer it to the task force. It's not until 3 July that there's a public announcement and many people have voted.

Mr Rogers: Again, I'll come back to you.

Senator AYRES: When did you become aware that a man from Blacktown had been charged?

Mr Johnson: On Friday 3 July, when the AFP publicly—and notified us as well.

Senator AYRES: And it's correct that he's been charged with one count of using a telecommunications service to menace, harass or cause offence, under the Commonwealth Criminal Code?

Mr Johnson: That's right.

Senator AYRES: Has the AEC assisted the AFP in their work?

Mr Johnson: Yes, we have. We referred, over the course, I believe, about 48 complaints of various emails to the Australian Federal Police.

Senator AYRES: Is there any other work that you've done with the AFP on this matter?

Mr Johnson: We've made that referral to them, so we've co-operated with them in that way.

Senator AYRES: Can you tell us when the man accused of distributing these appeared in court?

Mr Johnson: Again, I'd have to take that on notice. There was a hearing in early September and it was adjourned to November, it might be. I'll take that on notice and let you know.

Senator AYRES: Are you aware of any further charges being laid?

Mr Johnson: Not at this stage.

Senator AYRES: Does the AEC have any role in relation to the criminal proceedings beyond providing the initial complaints? Are you likely to be asked to provide evidence in court?

Mr Johnson: We will be asked to provide evidence by way of the emails we've received.

Mr Rogers: That one's a bit hard for us to answer, because that's really about what the AFP wants us to do or not. I presume we'll have some sort of involvement.

Senator AYRES: Have you determined whether there are any links between the man who was charged in this malicious campaign and any candidate or party contesting the by-election?

Mr Johnson: No, we haven't.

Senator AYRES: Are you confident that he's the only instigator of this campaign?

Mr Rogers: I think that will come out in the course of the case by the AFP. We're not aware of any links.

Senator AYRES: What will come out?

Mr Rogers: Any of the other information about this specific issue—because now it's handled by the AFP as an AFP matter, not a matter by the AEC.

Senator AYRES: So this is not just an issue in a by-election in Australia. It's a pattern of deliberate misinformation in electoral campaigns coordinated by all sorts of 'actors'—which, I think, is what we currently describe them as. Do you think that the AEC needs to do more to combat these kinds of campaigns?

Mr Rogers: I might make a few comments there. First of all, the whole reason that the Electoral Integrity Assurance Taskforce was set up was to help us in this regard, and we set that up before the 2019 election. I have to say it's actually an example of good policy work by all the agencies involved to try and respond in a fairly aggressive way to what's occurring internationally. You may or may not also be aware that we ran a campaign at the last event called 'Stop and Consider'. 'Stop and Consider' was a national campaign designed to assist citizens to think about the source of the information that they're reading. From memory, I think we got 56 million social media impressions of this campaign, and our analysis afterwards was that it had some impact with citizens, as they actually thought about it. It was a development of an idea that we saw overseas, which I think I've spoken to this committee about previously.

The Swedes are the world leaders in this. They have a campaign. In Swedish, apparently it sounds great. It's something like, 'If it makes you angry, it's probably false.' We were very conscious that we don't have a role in truth in advertising, so it's not about checking the facts; rather, it's checking the source of the information. But your broad point is correct, that this sort of behaviour does seem to be on the rise. We're doing as much as we can within the framework of the legislation, including things like the Electoral Integrity Assurance Taskforce. We intend to run a version of the 'Stop and Consider' campaign at the next event. Additionally, we do talk to our colleagues in the other state electoral commissions and the New Zealand Electoral Commission as a result of the work of the Electoral Council of Australia and New Zealand, and we share information on how we can do that. But, as you know, we're also restricted by the legislation in terms of exactly what we're going to do. I might also point out that, with the other members of the Electoral Council of Australia and New Zealand, we're just in the throes of developing a social media protocol which we intend to use as a group to regulate our interactions with the social media companies. Again, we're seeking to try and regulate some of the issues that we have to deal with them about, such as when we ask them to take things down, and there are circumstances in which they do that. We're trying to do as much as we can within the framework of the legislation. We take it seriously. I think the point you make is a good one. It's on the rise, and it's something we all have to have an eye on.

Senator AYRES: I accept what you say. I'm not sure, given the scale of these kind of operations, whether that's sufficient. Have you done a formal evaluation of the 'Stop and Consider' campaign?

Mr Rogers: Yes, we have. The analysis of the 'Stop and Consider' campaign is that it had quite some impact. As I said, there were 56 million social media impressions. That was our idea. We did that based on what was occurring internationally. We saw what was occurring

and, we learnt from what others did. We're going to do that again. I think we're doing it for the Groom by-election as well—

Ms White: We are, and we did it for Eden-Monaro.

Mr Rogers: and Eden-Monaro. We'll be out there doing as much as we can within the construct of the legislation. Actually, we are representing best practice as an electoral administration body in this regard. We really are taking it seriously and watching it.

Senator AYRES: Still, in the wake of the Eden-Monaro election, I accept what you say about the framework that you're working in now, but you were in possession of information that there was a pretty vile email campaign between 10 June and 3 July. Many people would have voted before anybody in the public saw any active steps.

Mr Rogers: I want to come back to you on that with further information before we say that, because I think it was in the media as well. I think people were pretty well aware. We're very conscious of the AFP's involvement in this regard, but the work of the task force has assisted us greatly. We're going to keep doing that. I do think, as a broader issue, that there is a need—nothing to do with the AEC. One of the bits of research that came out of the evaluation we did was that people said, 'We understand why the AEC ran that campaign at election time,' but, personally, I think there is room for a broader campaign to highlight to citizens—not just for elections but also more broadly—about fake information, inoculating the community against that sort of issue. That's well beyond anything we can do as the Electoral Commission.

Senator AYRES: You previously told the committee that the AEC considers that its main focus in the regulation of political parties and associated entities is to achieve disclosure. That's right, isn't it?

Mr Rogers: That's correct.

Senator AYRES: You'd stand by that statement?

Mr Rogers: Yes.

Senator AYRES: There's one matter I want to raise, but, before I do, I was wondering if you could refresh the committee's memory. In 2016, the New South Wales ICAC heard evidence that the New South Wales Liberal Party had allegedly washed donations through the federal associated entity the Free Enterprise Foundation. That's right, isn't it?

Mr Rogers: I think that was the allegation that was made. I think so.

Senator AYRES: Yes. In fact, you appeared before a committee that looked into the matter of associated entities, didn't you?

Mr Rogers: We are going back a bit here, but yes.

Senator AYRES: Could you describe to me what steps the AEC took in relation to the Free Enterprise Foundation at the time of those revelations?

Mr Rogers: We are going back some years here. I think the Free Enterprise Foundation, from memory, had no disclosure obligation that they didn't meet under the existing legislation. Remember that there is a patchwork of financial disclosure regulations in Australia that don't match up, state and—

Senator AYRES: Yes, I'm about to come to one of them. The AEC would be aware of an ABC investigation into the Queensland LNP which revealed that Ms Frecklington headlined fundraising dinners with property developers, despite property developers being banned donors under Queensland electoral law?

Mr Rogers: I wouldn't necessarily be aware of that, in all seriousness, because we don't regulate what occurs at state level. Of course, there are categories of banned donors, at least in a couple of the states—property developers in Queensland and New South Wales—but that's not the case federally.

Senator AYRES: Yes. When you say you're not necessarily aware of it—

Mr Rogers: I've seen some headlines.

Senator AYRES: So you're aware of it being in the public domain.

Mr Rogers: But I don't know the detail of that at all.

Senator AYRES: Is the AEC also aware of the allegation in the article that property donations could be washed through an industry body to remove the link to the illegal donors?

Mr Rogers: I'm not aware of the detail of that.

Senator AYRES: Well, the story says:

A key concern, according to three party sources, is an account given by a developer, Todd Brown, of Belmonde Property, that another prohibited donor allegedly instructed him to funnel illegal donations to the LNP via an industry body before the developer attended the event in August.

Mr Rogers: Again, if that's a breach of state law but not federal law—and it might be an allegation, too; I don't have that information in front of me—I wouldn't necessarily see that come across my desk.

Senator AYRES: I note that Mr Dutton, a federal minister, was a headline guest for at least two of the fundraisers. Is the AEC aware of any connection to any federal Liberal or National parties or any of their associated entities in relation to potential funnelling or washing of donations?

Mr Rogers: I'm not aware of any.

Senator AYRES: What would you do if you were?

Mr Rogers: It would depend on the circumstances in which that occurred. If we became aware of information, we would then examine that information and take action accordingly. But, if it turned out that that was, for example, something to do with a breach of the ban on particular classes of donation and that didn't run afoul of the federal Electoral Act, we wouldn't do anything about it necessarily.

Senator AYRES: Have you spoken to the Queensland electoral commission?

Mr Rogers: No, I have not. Sorry—

Senator AYRES: In relation to this matter?

Mr Rogers: No, I have not.

Senator AYRES: I wasn't asking for a blanket—why wouldn't you talk to them? It's a well-known—

Mr Rogers: We speak to the electoral commissions on a regular basis. In fact, if I think back, the last conversation I had with the Queensland electoral commissioner was broadly

about the issue of funding and disclosure. I'd read some sort of news report that seemed to me to indicate that they'd set up a new body in Queensland, a new funding and disclosure body, and I had not heard of that. I phoned him—it might have been last week or the week before—to check, and he said, 'No, it's just us.' So that was the sum total. I was interested in the mechanics of the way that they were dealing with classes of complaint rather than specific complaints.

Senator AYRES: You haven't undertaken any preliminary investigations to satisfy yourself that there are no breaches of Commonwealth electoral law here?

Mr Rogers: No. But, so I'm accurate for you, Senator Ayres, I'm looking around. I don't think anyone else has started any—no, we have not.

Senator AYRES: I'm happy to hand over, Chair.

CHAIR: Thank you. Senator Abetz?

Senator ABETZ: Thank you to the AEC. Last time around, I asked the AEC about the representations that were being made by GetUp, about what you had allegedly found. I'm just wondering whether you can provide us with any update in relation to that.

Mr Rogers: Possibly the only update I can provide is that I received a letter from GetUp after the last hearing. Someone's got a copy of that—here we go.

Senator ABETZ: What date was that letter, if I may inquire?

Mr Rogers: 16 September 2020.

Senator ABETZ: Rather than this committee's hearing, chances are it was after the Joint Standing Committee on Electoral Matters hearing. Is that what it references?

Mr Rogers: Yes, I think so. That's the last time we've heard from GetUp.

Senator ABETZ: Are you able to make that letter available to the committee?

Mr Rogers: I think so. I can't see why that wouldn't be the case. I might just, if you don't mind—

Senator ABETZ: Take that on notice, and let me know.

Mr Rogers: Yes. It dealt with the issue, I think, of some imprecision in language that had been deployed.

Senator ABETZ: Imprecision? I would assert a complete distortion. It wasn't imprecision; it was deliberate misrepresentation, which I have put to GetUp on a number of occasions now. I'd be interested in the AEC's response because it was an egregious, I would suggest to you, misrepresentation, which they then used for the purposes of fundraising.

Mr Rogers: I think we had an exchange last time—to be abundantly clear, for everyone, we have no power to declare anyone as an associated entity or not an associated entity. It's about the obligation to report, which is on record. I'll check whether I can make that letter publicly available.

Senator ABETZ: Thank you. If I recall correctly, I put four propositions to you at the last Senate estimates as to what GetUp were asserting the AEC had determined about them, such as that they were non-partisan, that they were of value to the electoral system et cetera, and you indicated very strongly at the time that they were things that the Australian Electoral Commission would not find, let alone say.

Mr Rogers: That's correct.

Senator ABETZ: The last estimates was in February of this year, and so that was put front and centre in the public record at these estimates in February. GetUp's conscience finally got to them on 16 July, by the sounds of it, some seven months later. I suggest that might be—I don't expect you to comment—as a result of the Joint Standing Committee on Electoral Matters hearing, where I put these allegations directly to GetUp. So they wrote to you on 16 September?

Mr Rogers: That's correct.

Senator ABETZ: Without divulging the detail, how long is the letter—one page, two page?

Mr Rogers: It is a very brief letter, from memory. I don't have a copy here. I have an extract of effectively what it says.

Senator ABETZ: Are you able to share that or would you rather take that on notice? I don't want to get you into trouble.

Mr Rogers: I would prefer to check with my chief legal officer later on, if you don't mind.

Senator ABETZ: Of course, I accept that. So 16 September, roughly one month ago, is the AEC's response to GetUp ready to go? Has it been sent?

Mr Rogers: What we would have done is acknowledge that letter, and there has been no other action at this stage other than that.

Senator ABETZ: I suppose it is one of those difficulties because I don't know the content of the letter, but is it the intention of the AEC to provide a detailed response to the letter?

Mr Rogers: Let me put it this way: the content of the letter is such that I felt no need to take further action.

Senator ABETZ: Right.

Mr Rogers: Let me put it a different way—

Senator ABETZ: You hinted or let out of the bag, at least, that GetUp had written to you about some imprecision of language, I understand. If that is the case, can I ask you: do you agree with GetUp—to use that very polite language—that it was imprecision of language that they used? Do you agree that that is what they did?

Mr Rogers: I'm being very careful here because I haven't put this letter in the public domain. I was very clear and I have been very clear with everyone all the way through, including with GetUp, that we don't have any power to declare anybody as an associated entity. I was abundantly clear with that. So I certainly note the language that GetUp have employed, and I think—

Senator ABETZ: But is it a gross misrepresentation—sorry, that's my language. It does not faithfully represent that which the AEC has said about GetUp?

Mr Rogers: That's correct.

Senator ABETZ: In that letter, have they offered an apology to the AEC? Take that on notice, if you like.

Mr Rogers: I will take that on notice.

Senator ABETZ: In that letter, have they offered to correct the public record? Take that on notice as well. And have GetUp offered to communicate with all their so-called members, which they spammed out to them all asserting things about the AEC, that that was incorrect?

Mr Rogers: I might wrap that up on notice.

Senator ABETZ: If you can take that on notice as well, thank you—noting, of course, Chair, that the CEO of GetUp, who is so interested in transparency for everybody else, just did not make himself available for that hearing but had other people representing GetUp, including somebody who used to campaign for the Greens, but there is no affiliation, of course! Now, moving on, if I may, is the AEC aware of a company called Climate 200 Pty Ltd?

Mr Rogers: I might be aware of that.

Senator ABETZ: We have two people aware of it, including Ms White, so that is good. I believe it backed 12 Independent and crossbench candidates in the May election, reportedly donating a total of \$305,000. Are you able to confirm that?

Mr Rogers: I would have to take that level of detail on notice.

Senator ABETZ: Alright, take that on notice.

Mr Rogers: We are aware of the reports that came out.

Senator ABETZ: Climate 200's donor return to the AEC details three donations totalling \$195,000, received between 26 April and 8 May from another company, Climate Outcome Foundation Pty Ltd. Are you aware of that?

Mr Rogers: I am just seeing whether I am aware of that.

Senator ABETZ: Without delaying the committee too much, feel free to take that on notice.

Mr Rogers: If that is on their donor return, I'm therefore formally aware of that.

Senator ABETZ: This company was created only two weeks before its first donation to Climate 200 and only five weeks before the 2019 election. Are you aware of that?

Mr Rogers: I won't necessarily be aware of that but if I could take that on notice.

Senator ABETZ: Could you please verify that for us on notice?

Mr Rogers: Yes.

Senator ABETZ: Climate Outcome Pty Ltd's executive officer is one Charlie Caruso, who describes herself as a disruption specialist who, in February last year, wrote a manifesto promoting an Independents' revolution and—oxymoronically, I would suggest—an Independents of Australia party. How you can be a party of Independents, I don't know, but that is what she asserts. I'm wondering if there is any obligation under the Electoral Act for Climate Outcome Foundation, which appears to have been brought into existence to funnel funds to Independent candidates via Climate 200, to itself disclose the sources of its funding to the AEC?

Mr Rogers: I'm just looking at the chief legal officer. If they are a donor, there will be an obligation.

Mr Johnson: That is a donor to a donor, so there is no obligation for the donor to disclose. The donor, Climate 200, has put in a disclosure return, an annual return.

Senator ABETZ: That was my concern, because it seems that this might be a methodology for laundering money to independents. You just simply set up two entities, get everybody to donate to the first, which then donates to Climate 200, and then nobody knows who is behind the show. Is that correct?

Mr Rogers: That could be correct. There is—

Senator ABETZ: Will you take it on notice?

Mr Rogers: I was going to say, if you allow us to look at it in detail.

Senator ABETZ: Yes, in detail.

Mr Rogers: As you know, funding and disclosure is the most complex area of the Electoral Act. I would hate to give you the wrong information, so I will take it on notice and have a look through that and come back to you with an opinion on it.

Senator ABETZ: Climate Outcome Pty Ltd's sole director is Mr Hopwood, who is also the managing director of the company which provides liquidity to holders of concentrated equity positions and cryptocurrencies, just out of interest. So theoretically, would an arrangement whereby an entity is created or exists to channel funds to another be picked up by the Electoral Act's anti-avoidance provisions as a potential conduit for foreign donations?

Mr Rogers: That's an interesting question.

Senator ABETZ: It is a further development.

Mr Rogers: Yes, we might take that on notice.

Senator ABETZ: What would the Electoral Commission do in such circumstances? And given that you've taken the previous one on notice, you might want to take that one on notice as well and give that further consideration?

Mr Rogers: As you know, we absolutely abide by the strictures of the Electoral Act and if we are required to do it, we do it.

Senator ABETZ: Yes, but this may potentially be exposing a loophole, which the likes of Zali Steggall and others and the member for Indi have benefited from. Would the AEC investigate, given the potential for undisclosed foreign donations, or would it require evidence of such donations to commence an investigation?

Mr Rogers: As you know, we use information in the public domain. We get tip-offs. We have other information that we use to determine what we do, but there would need to be some sort of potential for a breach.

Mr Johnson: If I could add, the offence you're referring to, the anti-avoidance foreign donations offence, is a criminal offence. We don't have powers of investigation, so we would depend on evidence being given to us and then would refer it to the AFP.

Senator ABETZ: So even if there are reports that this might be happening, that of itself does not excite your interest sufficiently to engage in an investigation? You would be requiring evidence to say, 'Here is a foreign transaction into this account which then seems to have gone,' and only then would you investigate?

Mr Rogers: Not necessarily. But I think the point the chief legal officer is making is we don't have investigatory power in this regard. If we thought there was an issue there, we

would refer that to the AFP for further action because they would have to make that determination.

Senator ABETZ: In the circumstances I have outlined where an entity appears to simply be a conduit to another disclosing entity which distributes money to independent candidates, if it doesn't itself disclose how can anyone be sure about the source of its funding?

Mr Rogers: Donors are required to declare their donations and donors are also required to declare the donations that they have received over the threshold. There is a way there that people would find out exactly if there was another party that had given money to a donor for the purpose of that donor to give to a political campaign. So if it is over the threshold that would be captured. Unless one of my staff is going to correct me, I think I am accurate with that.

Senator ABETZ: The difficulty here is that you could have a 'naive' donor donating to this climate company, the Climate Outcome Foundation, because they are concerned about the climate—a wonderful and honourable cause—and they just happen to donate to Climate 200, which then funds all these so-called independent campaigns. Can you take it on notice as to whether that is allowed under the act. If independents can get these bucket loads of money, hundreds of thousands of dollars—undisclosed other than coming from Climate 200, when we know there are other undisclosed sources—it reflects on their integrity but chances are, even more importantly, there may be a loophole in the act. I leave it at that and look forward to receiving the answers on notice and thank you for your work in the meantime as you prepare them.

Senator FIERRAVANTI-WELLS: I have some questions in relation to voter ID. To refresh your memory, I want to hand you a copy of an exchange between Senator Hanson and Senator Cormann. It occurred during the committee stage of the Electoral Legislation Amendment (Miscellaneous Measures) Bill 2020. You will see that Senator Hanson asks questions about voter ID. The bill was not about voter ID. I would like you to go to some of the issues that she has raised which are of concern and are perennial issues of concern in relation to voter ID. I note Senator Cormann's response. He says that this is 'real and genuine'—good, yes, we agree with that—and 'we support the introduction of voter identification.' Have we progressed this? Where are we at with this? It is a major issue and every time it gets even more complicated. I really would appreciate your thoughts on whether there has been any progress towards voter ID.

Mr Rogers: As you know, this is a very, very hot issue politically and the legislation doesn't enable us to ask for any form of ID at point of voting, and we don't. We ask the three questions that are mandated in that list. If the legislation is changed to require us to ask for identity, of course we will do that. At this stage, we're certainly not working on the introduction of any form of voter ID. I do note that it is a very, very political issue and one that is a matter for parliament rather than for the AEC. I know that in places where voter ID has been introduced, it is heavily litigated. If I look at the US, there is a patchwork of litigation around US around this particular issue. We take the integrity of the voting process that we have at the moment very seriously. We have a range of measures in place. I know some states have introduced measures that, whilst not voter ID, are designed to assist the process. If I get this wrong, Ms White might help me—as I understand it, for example, New South Wales don't have voter ID, but they have introduced a system where, if it appears that a

voter has voted more than once on a regular basis, they go onto a list. The New South Wales Electoral Commission is probably horrified I'm talking about stuff I'm not fully aware of—

Senator FIERRAVANTI-WELLS: Repeat offenders?

Mr Rogers: Yes. If they are on that list, when they go to vote, they can only vote via a declaration vote rather than an ordinary vote. So the theory would be that, if they voted more than once, there would be more than one envelope vote, and you would include one and discard the others. Also, that would be evidence that would then be used in a subsequent court case. It's very difficult without evidence. I think that's what they are doing in New South Wales. For us, we don't have plans to introduce voter ID. At the last election, what we did do, though, was use electronic certified lists. I think we used well over 4,000 of those electronic certified lists, and I think about 30 per cent of the vote was issued by electronic certified lists. They're networked. They don't prevent multiple voting, but they do restrict the opportunity for it. That's a measure that we are looking at expanding even further, but at this stage we have no plans to introduce identity at point of voting.

Senator FIERRAVANTI-WELLS: You mentioned earlier that you were looking at overseas practices in relation to the areas that Senator Ayres was asking about. Have you looked at other countries around the world where there is voter ID and how that operates?

Mr Rogers: Yes. We've looked at places like the US. The difficulty of looking at the US is that there's no one system of voting in the US; it's very fractured. I think they have a plan to introduce voter ID in Canada—again, if I'm incorrect with that, I'll correct the record. That's a plan that they have; I don't think they've yet done it. We work with some of our partners in the Pacific, where they do require identity at the point of voting as well, I think. Some of them use biometric data when they vote. We will do whatever parliament tells us. If we are told to introduce some form of ID, we will do so. If not, we will keep doing what we are doing at the moment. I think it's such a political issue that it needs to be decided by parliament rather than by the unelected AEC.

Senator FIERRAVANTI-WELLS: I think this has been canvassed before, but there is a process that triggers when the vote is so close—

Mr Rogers: Yes.

Senator FIERRAVANTI-WELLS: and that's when you go through the process and you see whether there's been multiple voting. At the last federal election, was the trend greater or lower? Are we seeing more of it? Perhaps you want to take it on notice. You did your analysis of the different seats. Are we seeing, increasingly, more multiple voting—

Mr Rogers: Than we have previously?

Senator FIERRAVANTI-WELLS: Yes.

Mr Rogers: The broad answer, I think, is no, but I will confirm that for you. There are a couple of things that are common with multiple voting across elections, though, and it might be useful to talk very briefly about that.

Senator FIERRAVANTI-WELLS: Certainly.

Mr Rogers: Again, I'll also clean up the statistics I'm about to give you, because I'm coming from memory. I think over 80 per cent of multiple voters, traditionally, are over the age of 80. There are some common themes with multiple voting. Quite often multiple voters

are people who have English as a second language and may not understand the process, people who are over the age of 80, also. They're the vast majority of people. There are also people as part of that process, at the extreme end, who have mental health issues as well. I say that because I remember—I think it was in 2013—there was one person that famously voted 15 times. From memory, it was their own festival of democracy. But when Federal Police became involved, there were other issues involved with that individual as well. So it's a very complex area. What we haven't seen is any large-scale attempt to disrupt the voting process through multiple voting. The more we use things like ECLs, the less likely we are to see that. Whether or not it's worthwhile introducing a system like they have in New South Wales with that repeat offender list might be something that could be worthwhile as well.

Senator FIERRAVANTI-WELLS: Thank you.

Senator SCARR: Sorry—I'm looking at the Elections Canada website, which refers to voter ID. Interestingly, there are three options, and this is going to lead to a question in relation to the third option. The options are:

Option 1: Show one of these pieces of ID

- your driver's licence
- any other card issued by a Canadian government ... with your photo, name and current address

Option 2: Show two pieces of ID

Both must have your name and at least one must have your current address.

Examples:

- voter information card—
they issue voter information cards—
and bank statement

- utility bill and student ID card

Then there are a whole list of options. But option 3—and I was interested to know if you were aware of this option—says:

You can still vote if you declare your identity and address in writing and have someone who knows you and who is assigned to your polling station vouch for you.

The voucher must be able to prove their identity and address. A person can vouch for only one person (except in long-term care institutions).

So there is almost a safeguard there—that, if you don't have any of those pieces of paper, if there is someone in that polling station who can vouch for you and prove their identity then that gives you an opportunity to vote. Were you aware of that third option?

Mr Rogers: No, I wasn't. But I'd say that it's interesting because it purports to deal with the other issue of identity in that there are sections of the community that struggle to prove identity. If I look at, particularly, remote Indigenous communities—where it's very, very difficult for those individuals to have some form of identity card—that's something that would have to be considered as part of the process.

Senator SCARR: That's what drew my attention to that third option, which seems to countenance that.

Senator FIERRAVANTI-WELLS: In countries where there are national identity cards—for example, in places like Italy—they're very good at voting lots of times. They do it quite

regularly, so they've kind of perfected the art a bit. They have a national identity card, so, in that instance, everyone has it, regardless of age. Therefore it's a lot easier. Thank you, Mr Rogers, for your information.

Senator O'SULLIVAN: The New South Wales option wouldn't necessarily pick up those cases where someone actually walks in and takes up someone else's identity.

Mr Rogers: Impersonation.

Senator O'SULLIVAN: Impersonation—that's right. You could know the names of 10 people down your street and go to 10 different polling booths with different names.

Mr Rogers: If you were so minded and had the time to do that, that would be a risk. We've got no evidence that that occurs at all, particularly on any sort of systemic basis or large-scale basis. It's never something that has come to the fore. We work with the AFP after each election. There's always a small number of genuine multiple voters, and I do mean a small number. There's never any evidence that the level of multiple voting has ever impacted on the result at all.

Senator O'SULLIVAN: You'd know, because those other people would have turned up to vote, presumably.

Mr Rogers: That's right.

Senator FIERRAVANTI-WELLS: But you have a trigger formula, don't you, Mr Rogers—if it gets to a particular point, that's when you go through? What's that formula again?

Mr Rogers: What we do at the end of every election, particularly, is prioritise those seats that are close. After the 2016 election, in the seat of Herbert, we worked over a couple of weeks with a large number of AFP investigators. It was the first time that investigators were allocated to that. The AFP doorknocked and did a range of things. So we really prioritise those areas where the result is close. There's no formula, but we really do pay attention—particularly when you start to get down into double-digit margins, you really need to make sure that that's the case, and that's what we do.

Senator O'SULLIVAN: I have questions on redistribution. I'm from Western Australia, so I'm particularly interested in the timing of the process of what's happening from here.

Mr Rogers: There has been a fair bit of interest in redistributions this time around. We've started the process. It's open for comments. I think we've said publicly—I think it's on the website—that we would like to have the redistributions that are currently running in Victoria and Western Australia finished by mid-year next year. As you know, there are a number of steps in that process. The first step is that we open for comments. The second step is that we publish those suggestions. We then take comments on the suggestions. Then the redistribution committee meets and takes all that information to hand. As you know, Western Australia are, sadly, losing a seat. The committee will determine, based on a whole range of factors, as you're aware, what the new proposal might look like. We have a draft solution, which we then publish. People then comment on that, and traditionally we've then had public hearings. If it looks like there's been an interest in that—if people are particularly agitated—we'll have a public hearing, and then the augmented redistribution committee will make a final decision on that.

Senator O'SULLIVAN: Do you have an expectation, any guidance you can give us, on the timing of each of those stages?

Mr Rogers: I do have some rough timings, but I might take that on notice, if you don't mind, so I can provide you that in detail. We make sure that the information is very public. We advertise at each stage in a variety of media events. It's well known, and we will make sure that people understand that process in detail. We got a number of suggestions upfront, so it seems to be working. We're getting a lot of interest in the issue of names at the moment, in addition to boundaries.

Senator O'SULLIVAN: Have you got a hierarchy of factors that you consider, like community of interest or the impact it would have on other seats and not wanting to change the boundaries of those seats too dramatically? What's the thinking and the hierarchy of those priorities?

Mr Rogers: Exactly as you've said, there are a whole range of issues we look at. The big issue, though, is demographics. It's as simple as that—where population is or is not. That's always a driver of where boundaries are.

Senator O'SULLIVAN: And the projections—

Mr Rogers: Correct—over the next five to 10 years. We take that job really seriously. I'm very conscious of the fact that the system in Australia is non-partisan and really works. I look at what occurs overseas. We don't want to lose that. But we also listen very carefully to what the community tell us. They put a lot of suggestions in, and they're normally along the lines of community of interest. That in particular is one. A lot of those are very, very genuine, and people feel very strongly about those communities of interest, so we certainly listen to that. It is a painstaking process—if I can just tell you—street by street by street. There are some obvious restrictions. If you start to get towards the edge of a state, there's a hard boundary there—

Senator O'SULLIVAN: Or an ocean.

Mr Rogers: Or an ocean—something. That's why you end up with some odd shapes occasionally, as you're taking account of natural boundaries or communities of interest and issues like that. It's great that it's very public, I think, rather than being completely done behind a closed door.

Senator O'SULLIVAN: Thank you.

CHAIR: I have just one quick follow-up question on that. I was interested to hear your comment, Mr Rogers, that you are very influenced by community submissions—or you take heed of community submissions. Do you apply an appropriate degree of scepticism as to whether those community submissions are in fact genuine community submissions and not generated by political parties to facilitate their self-interest?

Mr Rogers: We take every submission that comes in—let me be clear about that—and we do take it at face value. But I have to tell you that we are very skilled at taking those suggestions and looking at them in a very neutral way, and the driver is always the demographics. Interestingly, we have a number of people who have contributed to pretty much every redistribution that I've been involved with—these are citizens. I don't want to call them hobbyists, because I actually think it denigrates the work that they do. They are totally focused on this. It's their thing, and they produce solutions, and then they criticise each other's

solutions. It's an interesting community of people involved in this process, in addition to the political parties and then in addition to members of the public.

Sometimes members of the public give us a fulsome redistribution. Sometimes they're agitated about one seat and they'll give you a suggestion about one seat. As I mentioned before, there's a lot of interest in the media at the moment about names. That's generating a lot of commentary. I haven't quite seen all the suggestions or anything yet, but names are a thing that's in the media, so I'm suggesting there'll be a number of those sorts of comments as well.

CHAIR: I don't want to be too cynical—and I won't refer to the particular submission or the particular seat, because it's not the material, it's just the wider issue I'm highlighting—but in the submissions that I've reviewed from the Victorian redistribution, which have already been publicised, there was a major party advocating a particular name for a particular seat, and there were a number of concerned citizens advocating the same name for the same seat in strikingly similar language, in fact, almost copy-and-paste language. If they had put those submissions in in a later round as a comment in response to submissions, it could be that they were inspired. But that they, coincidentally, have all put the same submission in at the same point suggests that perhaps there's some coordination.

Mr Rogers: Before I make the next comment, I should also point out the process. When you asked me the question, Senator, I was talking very generically, which I'm okay to do. Each committee lives and stands on its own, and the committee determines what it does. But I do know that everyone takes it incredibly seriously and we look at all the suggestions and in some detail. But one of the things that has been in the media—I'm just opining here—is that some of the guidance that's been provided to the AEC by parliament is guidance only and should be set aside, and I'm a little troubled by that. We rely on the guidance that's been provided. So that'll be an issue for that committee to deal with, I think, when it comes to it.

CHAIR: Okay. Thank you very much.

Senator FARRELL: I refer to the budget allocation of \$96.7 million over three years for ICT modernisation. On page 80 of Budget Paper No. 2 it says:

this is—

... to commence the modernisation of the Australian Electoral Commission's (AEC) ICT systems and infrastructure.

It goes on to say:

This funding will support contract centre modernisation and new systems for control of the AEC's election personnel and logistics.

This measure builds on the 2019-20 Budget measure titled *Australian Electoral Commission — polling place technology and upgrade of ICT infrastructure*.

I have a few questions in relation to that. The first question is—

Mr Rogers: Senator, if you don't mind, I might ask Mr Ryan to come forward just in case we need to ask questions.

Senator FARRELL: Welcome, Mr Ryan. Can you please break down that amount of money for the committee? What is meant by contract centre modernisation? How much will be spent on that and the polling place technology?

Mr Ryan: I'll start with the breakdown. Firstly, 'contract centre' is a typo; it's actually 'contact centre'. So the expenditure just for the contact centre is \$3 million over the three years.

Senator FARRELL: Let's go back. What's the typo? 'Contract' is the wrong word.

Mr Ryan: Yes, it's 'contact'.

Senator FARRELL: Oh, well, there we go.

Mr Ryan: So, essentially, that's just to improve our handling of inquiries from the public at election time to have more automation.

Mr Rogers: As you know, we get many hundreds of thousands of bits of correspondence from citizens at election time asking a whole range of questions. If we can make that smoother and better, we're more likely to get a better outcome.

Senator FARRELL: Alright. Is that \$3 million?

Mr Ryan: It's \$3 million.

Senator FARRELL: So \$3 million is going to be spent on improving the contact centre modernisation?

Mr Ryan: Yes. You wanted a further breakdown.

Senator FARRELL: Yes.

Mr Ryan: The core capability, so the supply chain management, is \$13.99 million. That's essentially the system that we use to move materials around at election time, including ballot papers, and get materials back to the counting centres.

Senator FARRELL: How will you spend that money?

Mr Ryan: That's looking at actually getting a customised system off the shelf. At the moment, most of that's based in excel spreadsheets. So we're looking to grab a system from the market that we'd actually be able to use to manage the supply chain.

Mr Rogers: Senator, as you're aware, I've said to this committee previously, elections are possibly one of the most complex peacetime logistic events in Australia. There are a million fidget wheels. I'm very conscious that, if it's not managed well and if there's an issue and it prevents people from voting or worse, the consequences are quite dramatic. We need to have a better system to manage that process.

Senator FARRELL: You're not going to do a PEMS, are you? Are you going to try to do it yourself?

Mr Ryan: No.

Senator FARRELL: Are you familiar with PEMS?

Mr Ryan: I'm not familiar with PEMS.

Senator FARRELL: You'll have to read some of the earlier transcripts of today's hearings.

Mr Rogers: Senator, if it's bad, we're not doing it.

Senator FARRELL: Good. So that's \$16 million. What's the rest of the \$80 million?

Mr Ryan: I'll try and round these for you. For the temporary election workforce, we'll spend \$8.4 million. That's a system for employing, recruiting and paying approximately

90,000 people during the election period. Again, that will be a system that we should be able to take off the shelf. The approach is not to build a bespoke system, but to use systems that are actually in the market for us to use for supply chain. There is \$5.7 million for a national election coordination centre. That is establishing a secure enclave in the national office to be able to manage the daily operations of an election during the period. They're the core capabilities. What we're also doing is spending some money on foundational infrastructure—I won't try and use tech talk—essentially to streamline, automate and integrate our processes and technology. That will cost about \$48 million.

Senator FARRELL: What's that one?

Mr Ryan: That includes an enterprise service management model to improve the efficiency of our operations; business process management, so we can map our processes and make sure that they're as efficient as possible; and enterprise integration, which makes sure that the systems talk to each other. The plan is to invest in that foundational piece—that's tranche 1. Then we would look at the election management and roll management systems down the track. But our view and experience tells us that we invest in the foundational piece before we take on the big legacy system.

Senator FARRELL: None of this money is going to be spent on cybersecurity measures?

Mr Ryan: Cyber will form a part of that.

Senator FARRELL: Of the \$48 million?

Mr Ryan: Of the \$96.7 million. We are cognisant of the complex cyber environment that we operate in. That foundational piece will actually bolster our ability to have automated cybersystems working. At the moment, we do a 24/7 manual look at security for cyber at election time. So that will set us up to actually get off-the-shelf systems to better manage cyber as well.

Senator FARRELL: Does the upgrade of the ICT infrastructure include improving the AEC's website and, in particular, the transparency register? We've talked before about Queensland and South Australia's portal which appears to be an off-the-shelf product and works very well. Are there any plans to move to that sort of software?

Mr Ryan: Not as part of this funding bid.

Mr Rogers: We are continually upgrading that. I think we had a chat about this before. I thought you might ask that, so I even jumped onto our transparency register today.

Senator FARRELL: One step ahead, as always—

Mr Rogers: As always, Senator. Where we are at the moment with the transparency register is leaps and bounds from where we were before it was in place. It's searchable; it works. We've had good feedback about the transparency register. We are continuing to do further work on it, but it is providing a tool that people can easily search as well.

Mr Ryan: Could I just close out the answer to your question? If you're doing the sums, there's probably \$15 million missing there. That's actually for the tranche 2 planning. Whilst we're implementing that, we'll actually be doing planning to go back to the ICT process for the core legacy system: the election management system and the roll management technologies. We'll have a separate team taking a look at that.

Senator FARRELL: Alright. Page 80 of the portfolio budget statement shows a payment measure of \$96.4 million over the next three years, yet last year's portfolio budget statement showed a cut in the 2021-22 year of \$11.2 million. Can you explain why there was a cut budgeted for in 2021-22? Do you agree that those are the figures?

Mr Rogers: They are the figures. I think they're to do with our investment in electronic certified lists. I'm pretty sure that's what it is. I might take that on notice, if you don't mind.

Mr Ryan: So it wasn't a cut.

Mr Rogers: No, I don't think there was a cut, though.

Mr Ryan: It was actually an allocation of funding—

Senator FARRELL: I suppose my point is, if the figures show a cut in 2021-22, isn't at least part of this \$96.4 million simply making up for that cut?

Mr Rogers: No. I think—and that's why I'd just like to reflect—it was an investment for us to do a further pilot on the development of electronic certified lists, which I mentioned before, with a view, ultimately, to see whether we could roll them out more broadly and whether or not there was a better piece of technology than the technology we're currently using. So it wasn't a cut; it was certainly an investment. I'm not quite sure how that would be coming across as a cut.

Senator FARRELL: Alright. I'm happy to get anything from you on that. Just going back to that three-year proposal, what impact will that money have on the next election, and how much of it will be implemented by then? I take it you're not going to have that money spent between now and the next election—or are you?

Mr Ryan: As part of using a tranced approach, we're very cognisant of being bookended by elections and not having the election as the first time that we would use a newly implemented system. We will be working in the three-year cycle, so you won't actually see any benefit from this tranche until a potential 2025 election.

Senator FARRELL: The 2019 MYEFO allocated \$2.7 million over four years for cybersecurity resilience and workforce package. Is that \$2.7 million part of the \$96.7 million, or is the \$96.7 million all new money?

Mr Ryan: It is all new money.

Senator FARRELL: I note nothing in the budget for 2022-23. Is full functionality expected by then? I think you've answered that question.

Mr Ryan: It is, yes. Of these capabilities?

Mr Rogers: Of those tranches—just to be very clear.

Mr Ryan: Of those tranches. The first tranche goes to 2023, so the capabilities we spoke about will be in place in 2023.

Senator FARRELL: You did pre-empt a bit of a question on the Transparency Register, but I'll backtrack a little bit, and there may be some more information you'd like to add as a result of some of these fresh questions. As you know, you've had a recent ANAO audit of the AEC. The audit notes that \$56.5 million was allocated in December 2017 to implement the electoral integrity reforms, of which \$19.5 million was to design and deliver a self-service platform which is to include a funding and disclosure portal. That was scheduled to be

delivered in the first quarter of 2021 but has not yet been delivered. When is this scheduled to be delivered, and are there revised costings and resource requirements?

Mr Rogers: I might start off, and then Mr Courtney might add any additional information. We are working through that project, Senator, as you've just said. We've delivered the Transparency Register already, as part of that project. We are also doing some other work behind the scenes which will ultimately lead to better interactions with the political parties, which was a part of that. Part of that funding is also for staffing and for training of those staff. We are recruiting some of those staff as we speak. And, generally speaking, it's tracking along as we would have expected. Mr Courtney, do you have anything to add?

Mr Courtney: I can confirm that that's due to be delivered by no later than the middle of 2021. The first component, the Transparency Register, has been delivered. The next component will be a political party portal, which I would hope would come through by the end of the first quarter of 2021, followed by a nominations function, which I would expect by the middle of the year.

CHAIR: Senator Farrell, can I just jump in on timing quickly? Apologies for interrupting you, because I know you're in the middle of your questions here. We were due to go to a break at 9.15. I have let that lapse because I had the sense that we could probably finish the AEC more quickly if you were allowed to conclude your questions. I'm just checking my assumption there. Is that a fair assumption?

Senator FARRELL: I do have quite a few questions left to go. I'm happy to keep going, but, if it's the preference to have a break, I've got no difficulty with that.

CHAIR: I think we could probably manage without the break if that facilitates us getting through the AEC more quickly and finishing early, but that's not an invitation to ask 15 minutes of extra questions; that's an invitation to finish 15 minutes earlier.

Senator FARRELL: Well, I'll take up that invitation.

CHAIR: Which invitation, Senator Farrell, to be clear?

Senator FARRELL: I get your drift.

CHAIR: Thank you.

Senator FARRELL: Sorry. We were rudely interrupted there, Mr Courtney! Will the self-service platform include a funding and disclosure portal similar to those in Queensland and South Australia, if you're familiar with those systems?

Mr Courtney: I'm not familiar with the detail of those, but we've certainly looked at what they do.

Mr Rogers: Just so that you don't think we're ignoring what they do: Queensland have actually come down and demonstrated the system to us, so we've taken an interest in how they've implemented that.

Mr Courtney: I think the point I would make is that their underlying legislation is different to ours. I think they have more of a real-time type legislation, and their funding and disclosure portal is supporting that. We're obviously implementing a portal which supports our legislation, and it's not quite the same. I sense you're seeking to do a little bit of a comparison there, and I'd just make the observation to you that the underlying legislation is different.

Mr Rogers: Again, I fully agree. I'm not sure that it's completely real-time disclosure; I'm not sure anyone in Australia has that. I think it's near-to-real-time disclosure.

Senator FARRELL: You're saying that about Queensland in particular?

Mr Rogers: It's not that a party makes an entry and it pops up on the webpage. My understanding is that it's very near to real-time disclosure but not quite.

Senator FARRELL: I thought it was seven days.

Mr Rogers: Yes, seven days.

Senator SCARR: As somebody who regularly has to make disclosure through that portal, I can tell you it's pretty close to real time. As a donor, you have seven days in which to lodge your information through the portal, and then I think it's a very short amount of time before it actually goes live.

Senator FARRELL: Okay. I get you. I referred previously, in the context of another matter, to the so-called PEMS, where \$38 million was budgeted but it's already cost much more than that and got nowhere near being completed, and there have been some other issues that have arisen today. My question is: is \$19.5 million a realistic amount of money to complete this process?

Mr Rogers: I might take that question to start with. Every IT project, as you know, Senator, is difficult. We're tracking that expenditure very closely through the normal range of project management governance structures that you would understand. I think at this stage it's tracking along pretty much where we thought it would, so I'm not concerned at this stage. I think it'll deliver the functionality for the price at this stage. But we'll keep moving along. Mr Courtney, I'm happy for you to—

Mr Courtney: In anticipation that you might ask this question, I thought it might be useful to know that the project has currently spent—

Senator FARRELL: You're anticipating all my questions tonight! What's going on? Do I have a leak in my office?

Mr Courtney: It has currently spent \$15.8 million in delivering the functionality to date, and we actively are monitoring it moving forward. I would observe that the funding we received for this had a number of components: one in the capital component and one in the ongoing operating component. This project has already delivered part of an operating component, and that is the Transparency Register which is being used. So we will see that transition and the ongoing funding then supporting its operation as the other components are implemented.

Senator FARRELL: Okay. When did the AEC launch the current Transparency Register?

Mr Courtney: The first version of that was in December 2019, and we've subsequently made some further releases to that as the legislation has required. The legislation was there and the timings came up, so the register was basically improved.

Senator FARRELL: What was the total cost of the Transparency Register?

Mr Courtney: That's all incorporated in the cost of the portal itself. The budget at the moment is the figure you've already mentioned: just over \$19 million. As I say, we've currently spent \$15.8 million in delivering the Transparency Register but also the modules which are still currently under development.

Senator FARRELL: Who designed the register? Can a copy of the AusTender contract be provided, and can we have some information about how those contractors were selected?

Mr Courtney: The register is using a standard set of software to actually be configured. It's not an off-the-shelf product, as my colleague was referring to, because of the nature of it, but we're actually assembling it using fairly standard Microsoft technologies to move it forward. It is something which the AEC is doing in-house as we move forward. Certainly the AusTender contracts are there on AusTender and, if there's something further you need, I'll take that on notice.

Senator FARRELL: We can find it ourselves. The final question was how they were selected.

Mr Courtney: I think the products we're using are our standard set of technology products. We have, if you like, a standard set, so those were the products we used. We don't tend to go outside of the family of Microsoft products, which are pretty much in standard use across government agencies. We certainly used the whole-of-government contracts to procure that. So it's one of their standard Microsoft products which we move forward.

Mr Rogers: And I guess, in broad terms, we would follow whatever the procurement guidelines are in following that process.

Mr Courtney: Yes.

Senator FARRELL: Okay. Do you use the register yourself?

Mr Courtney: The Transparency Register?

Senator FARRELL: Yes.

Mr Courtney: I have used it, as I'm responsible for it. Yes, I've used it, but I don't claim to be an expert. I'm not a user of it; that's a different way of putting it.

Senator FARRELL: No. We've had quite a bit of negative feedback about it. Have you received anything along those lines?

Mr Courtney: I think this is something which might have been mentioned at an earlier hearing, and we certainly undertook some inquiries to try and track that down. I'm not aware of any—

Senator FARRELL: Nobody's come up and complained to you or sent you an email saying, 'Look'—

Mr Rogers: In fact, from memory, I think we've had the reverse of that. I think we've had some positive commentary.

Mr Courtney: Yes. I wouldn't wish to suggest that's not correct, but we're very conscious that the user experience on these products is extremely important. So, if there is negative feedback, we are very open to receiving it.

Senator FARRELL: So who should I direct these people to? To you?

Mr Courtney: They can come through to our FAD inquiry line, and we would deal with it from there. If I may, obviously with the other products that we are going to be creating through this project, such as the party portal and, indeed, the nominations module, usability is absolutely key, and there is a substantial amount of effort being put into a part of the process

to engage with the potential users of those systems to ensure that it is usable to them moving forward.

Senator FARRELL: On that matter, why are users only able to search within one type of return out of all the different types of returns? Do you understand what I mean?

Mr Courtney: I do. You're going to test my detailed knowledge of how it works. I'm more than happy to, if I may, take those and engage in a conversation about that. This is coming—

Mr Rogers: Just so we understand, you're saying, 'I have to search for a political campaigner, and then I have to search for a third party'?

Senator FARRELL: Yes. Is that a deliberate design feature of—

Mr Courtney: Not at all. The intention of the Transparency Register is to provide it in a format where you can effectively search however you wish to. If the users are encountering difficulty in that, I'm more than happy to look at that to see how we can address that. Effectively, can you download that data and do whatever you wish with it. It was one of the major design features that we wished to put in the Transparency Register. I'm beginning to understand, perhaps, where your concerns are coming from around the usability, in that sense.

Mr Rogers: We can absolutely have a look at that.

Senator FARRELL: Another comment was that, for people who are frequent users, it regularly freezes when you are trying to undertake a basic search. Has anybody complained about that to you?

Mr Courtney: I'm not aware of any complaints of it freezing.

Mr Rogers: I've just checked over there, and that is not something that has come to us before. Again, if you can provide that feedback to us we will absolutely jump on it.

Senator FARRELL: Somebody's taken some photos of the pages, which I'm happy to provide.

Mr Rogers: Yes, please.

Senator FARRELL: I won't hold up proceedings tonight. Before rolling this out, did you do some testing with potential users?

Mr Courtney: With the user base?

Senator FARRELL: Yes.

Mr Courtney: At the time it was pushed out with some urgency due to the change in legislation. I would have to say that we did some agile testing and user experiences on it, which is why I am particularly attuned to your comments about usability. We have a little bit more time with the other modules of the party portal and the nominations module, where we'll be able to do some education and user experience testing of those modules before they actually have to go live. Just the timing of when the Transparency Register needed to be there didn't quite allow us that luxury, if I may say so.

Senator FARRELL: We'll come forward with some helpful and constructive comments.

Mr Rogers: That would be great.

Senator FARRELL: Moving on to the ANAO performance audit. The ANAO made a number of observations about the AEC's annual compliance review program. Are the compliance reviews for the 2018-2019 financial year complete?

Mr Rogers: No, they're not. Did you say 2019-20.

Senator FARRELL: I said 2018-19.

Mr Rogers: 2018-19. The vast majority of those are complete. We've received the vast majority of returns and we've published those returns. There are a couple outstanding. We are now going down the path, as we've done previously, of some form of action against those individuals that haven't submitted.

Senator FARRELL: What is that? A letter in the first instance?

Mr Rogers: No. Given that the legislation has changed, civil penalties are now involved. I think we're getting an external legal firm to assist us in that process.

Mr Johnson: That's in relation to the election returns of 2019. For 2018-19 it is letters warning to get those documents in.

Mr Rogers: Sorry, for election returns; but for the annual returns, I think there are only two outstanding annual returns at this stage, for that period. We have two outstanding annual returns. We have a few outstanding election returns. The annual returns we are still working through, but eventually one of those may well end up with some form of legal action, as well, but it's still in train.

Senator FARRELL: When would you anticipate the figures finally being published?

Mr Rogers: The whole thing being complete?

Senator FARRELL: Yes.

Mr Rogers: It's a little hard to say, because we're waiting for some responses from some individuals, but as quickly as we possibly can. As you know, these matters are complex. We have to allow for natural justice to play out as well. If I'm looking here, I can be corrected, but of the two outstanding annual returns from 2018-19, one is actually a disagreement about whether or not a return is due, and we are still coming to base; and another one simply hasn't provided the return despite having been asked to do so. I think that particular one will end up with some form of stronger action.

Senator FARRELL: I understand the AEC doesn't undertake compliance reviews of entities that submit returns with no financial disclosure, but that you will consider the ANAO's recommendations to include those in your program—

Mr Rogers: Moving forward.

Senator FARRELL: Moving forward, yes. So from now on will you now be reviewing all returns?

Mr Rogers: Just by the by, we do review all returns when they're submitted. They're reviewed for completeness and accuracy. As you probably know, a large number of issues are picked up by the AEC at point of submission. So in my mind that is a kind of review in any case. Then we run a formal compliance review program, where we review a number of entities during that period. We've looked at the ANAO recommendations, and I think that's one of the ones where we said agreed with qualifications. We're going to look at that moving

forward. There is also the issue of materiality, as well. If it's genuinely a nil return, and there are other entities that have many millions involved, and we're trying to balance out resources, there will always be a balance involved here.

Senator FARRELL: Have you sought any additional funding from the government to do a bit more work in this area?

Mr Rogers: To be fair, we have some additional money. We are actually in the middle of recruiting extra staff at the moment. But there will always be a balance. We are trying to be a model regulator in many ways as well. To adhere to some of the things that are in the regulator framework, one of the things is to not overly complicate the life of those being regulated unless there is a reason to do so. That's exactly what we're doing with that. But we are certainly going to look at it as we move forward.

Senator FARRELL: I'm not sure if you are aware of the Labor Party's proposal in respect of real-time disclosure, not dissimilar to the Queensland operation. Would that help you in your compliance requirements and other enforcement activities?

Mr Rogers: I'd have to think through that. There is a political dimension to that which is clearly a matter for parliament. I would point out that a major change like that is likely to have some resource implications. I throw that on the table because whenever people talk about those sorts of changes I like to be on record as having said that. It would certainly require a different set of systems to the ones we have at the moment, which are largely set up to administer the legislation we currently have. So there would be a resource requirement. Whether or not parliament thinks that's a good idea or not, that would be a matter for parliament to opine on.

Senator FARRELL: I note that the report said that the AEC was taking enforcement action against 11 candidates that did not lodge returns in relation to the 2019 federal election. Has enforcement action commenced for all those 11 candidates?

Mr Johnson: We're in the process. Six of those candidates have now provided returns, so it's commencing action in the courts—I'm told it's down to five. Those five remaining candidates are candidates who weren't elected in the 2019 federal election and haven't put in nil returns for receiving no donations.

Senator FARRELL: The six?

Mr Johnson: The five remaining. We expect that they probably received no donations and only need to put in a nil return, but—

Senator FARRELL: But they just haven't done it?

Mr Johnson: Yes.

Senator FARRELL: You would be familiar with this, Commissioner: in your response to the ANAO, you state that the reason that the AEC adopts an educative rather than a strict enforcement approach to disclosure is because many disclosure entities have volunteer staff completing very complex requirements. Do you consider that the administrative funding for political parties, which could enable parties to employ staff to manage disclosure requirements, would increase compliance?

Mr Rogers: I'm not sure I want to give an answer that's going to end up with some sort of funding bill attached to it for a political party, to be honest. I'd have to think about that.

Senator FARRELL: Alright, you can have a think about it.

Mr Rogers: For the record, the whole model of compliance isn't an arbitrary thing that we've just settled upon; this was the legislative intent of the legislation we are administering. We are very conscious that a large number of candidates will have a one-off interaction with the AEC as they stand for election; they have virtually no knowledge of matters to do with funding and disclosure. We certainly don't want to be in court with those individuals. Every year, we accept a large number of amendments from political parties across the spectrum. Given that the main legislative purpose of the scheme is disclosure, as long as those returns are eventually received, amendments are received and people have a fair idea about where money has come from and is going to, I think the purpose of the scheme is being achieved.

Senator FARRELL: Can I ask some questions about the Groom by-election contracts. On 8 October the Speaker set 28 November as the date for the Groom by-election. Before that date was even set, two contracts were awarded for services for the Groom by-election—one for public relations services, worth about \$15,000, and one for creative advertising, worth about \$85,000. How many tenders were received for each of those contracts?

Mr Rogers: I'm sorry, we'll have to take that on notice. I might just say, though, that we follow a normal procurement process with that.

Senator FARRELL: What criteria were used to select the successful applicants?

Mr Rogers: The normal procurement criteria.

Senator FARRELL: The successful tenderer for the PR contractor was a company called Horizon Communication Group and the successful tenderer for the advertising contract was a company called BMF Advertising. Both of these companies are Sydney based. I imagine there would be a lot of regional journalists who are out of work and would be well qualified to do some of the PR work for the by-election. Did you give any thought to using local Queensland businesses?

Mr Rogers: That's a good question. I think what we did was follow the standard procurement process. We are fairly bound by that procurement process. I would also point out that the time frame for these things for a by-election is always tight. It doesn't often give us an opportunity to be creative. I absolutely take your point that there would be a number of not just journalists but public relations specialists out of work in the entire region. Possibly, as things pop up in the future, we might be able to do that. But certainly for the by-election, without even having the detail in front of me, I would guarantee you that we followed a standard process. We may have even accessed a pre-existing panel, and we have to access and select from those panels.

Senator FARRELL: Does that mean you couldn't—if there was an out-of-work journalist in Queensland—

Mr Rogers: I might come back to you with the detail. If we accessed a panel—and we had to access that panel—

Ms White: That's right. It would be those that are on the panel that we would have—

Senator FARRELL: In that case, you wouldn't be able to go to somebody who is in Toowoomba—

Mr Rogers: Potentially not—unless they were on that panel.

Senator FARRELL: Okay. That's fair enough. The AEC is listed on the websites of both companies as a client. How often would you use these particular companies? Again, you can take that on notice if you need to.

Ms White: We can take that on notice.

Mr Rogers: We've certainly used Horizon before; I know that for a fact. And I think we have used BMF as well.

Ms White: Yes, we have. We'll have to come back to you.

Senator FARRELL: How would you change the guidelines to open it up a bit to some of these local companies?

Mr Rogers: I might take that on notice as well, because it's a fairly complex area.

Ms White: It is a whole-of-government procurement that we sit under, so it would be wider than the AEC's control.

Senator FARRELL: What services will these agencies be performing?

Mr Rogers: At every election and by-election there is a range of services that we provide to citizens to make them aware of the election, their obligations under the election, where they can vote, how to cast a valid vote and what services are available to them. We do this at every election. We also make sure that people are aware the election is on, and they assist us with that process, for example.

Senator FARRELL: Given all that, why isn't this an in-house—

Mr Rogers: We also do a lot of that work in-house—absolutely.

Senator FARRELL: So what are these people doing that you're not doing in-house?

Mr Rogers: It could be, for example, leveraging relationships with local media organisations. It could be placement. It could be bulk purchase of media placements, which is something that these companies do and we don't do. But some of the design work is done by us, particularly for the—

Ms White: Public-facing material.

Mr Rogers: The material that you see is largely designed in-house. I'm happy to be corrected on that. They will assist us with that. They will do a range of other things. They'll also help us with the advertising campaign. There are a range of services like that.

Senator FARRELL: In the case of the PR service contract, that contract started the day before the election was even set. Why would that be? Why would they have started—

Mr Rogers: Once the resignation occurred—

Senator FARRELL: You would take some action?

Mr Rogers: We've got to start doing stuff—

Senator FARRELL: To get the ball running. The PR contract runs until 30 January and the contract for advertising runs until 30 June. Obviously the—

Mr Rogers: A long election, Senator.

Senator FARRELL: It would all be over, well and truly, by then, wouldn't it?

Ms White: It allows us to cover for any other upcoming by-elections which may occur.

Senator FARRELL: Okay.

Mr Rogers: Again, Senator, we know nothing—

Senator FARRELL: Nothing we don't know?

Ms White: No.

Senator FARRELL: Or is there an early general election in the offing?

Mr Rogers: No. That is not something—

Senator FARRELL: Alright. I thought you might have a bit of a tip there that you could disclose to us! Again, you might want to take this on notice: how much has the AEC spent on outsourced PR services and advertising in the last financial year?

Mr Rogers: Sure. To pre-prepare, there will be a fair bit because the election is there and obviously—

Ms White: And Eden-Monaro.

Mr Rogers: And the Eden-Monaro by-election as well.

Senator FARRELL: The last financial year? No—Eden-Monaro—

Mr Rogers: Last financial year. I'm sorry.

Senator FARRELL: So it would be the general election—

Mr Rogers: Yes.

Senator FARRELL: and any by-elections in the lead-up to that. There might have been quite a few.

Ms White: There were.

Senator FARRELL: Six or so.

Mr Rogers: Yes.

Senator FARRELL: I note three other contracts have been awarded so far for the Groom by-election: one to source and secure suitable accommodation for the OPC, which I understand is the outposted centre, for nearly \$13,000; one for the property management service of \$29,547; and one for nearly \$172,000 for the lease of the OPC. The \$13,000 is a finder's fee and the \$172,000 is for a three-month lease. That seems to be a bit on the high side. Is there a reason for that?

Mr Rogers: As you know, Senator, we are hostage to what's available in the area when an election occurs. We use property companies—I think that's the finder's fee that you mentioned—to help us source—

Senator FARRELL: Of \$13,000.

Mr Rogers: It has to meet a whole range of requirements, from occupational health and safety through to size, scale, security and a range of other issues. It's complex. Sometimes there may only be one or two places that meet all of those criteria, and, if that's the case, rents can be high. Sometimes that's just the way it is.

Senator FARRELL: It does seem to be a very high amount of money for just a three-month—

Mr Rogers: I can check the detail. I don't know what lease costs are in that area.

Ms White: The commissioner is correct: sometimes we are held hostage to prices and there is finite time to have these things, and we need to take into consideration the health advice around the space allowed in the current situation.

Senator FARRELL: Who signs off on the contract? Is that you, Commissioner, or is it one of your officers?

Ms White: The state manager.

Senator FARRELL: The state manager in Queensland?

Ms White: Yes.

Senator FARRELL: Again, you might want to take this on notice: The \$29,500 contract for property management service—what was that for?

Ms White: That would be to cover the cleaning. We have to also do deep cleaning now as part of the health process that we have.

Senator FARRELL: With COVID?

Ms White: With COVID, not just for the outposted centre but for our polling places in general. We can provide the extra detail to you.

Mr Rogers: For example, with Eden-Monaro, we wrote to the secretary of the Department of Education in New South Wales, given we are in a pandemic, about whether they would allow us to use the schools. From memory, he wrote back and said, 'Absolutely, but we will require you to do a deep clean and deep sanitising of the facilities before they are handed back.' The cost of cleaning increases as a result.

Ms White: We do that for every polling place.

Senator FARRELL: On those points, I will ask a few questions, if you could follow up. What is the OPC used for? How much space is there and where is it? How big do the premises need to be for a by-election? Were tenders awarded on price? What were the losing tenders? I mentioned the \$172,000. And did you seek any assistance from the Queensland Electoral Commission about suitable premises they might already have used?

Mr Rogers: We'll take those on notice. We can answer one of those questions: the purpose of the outposted centre. That's where the count occurs. That's where all the votes eventually go back to and where they are counted.

Ms White: Return of materials.

Mr Rogers: And return of materials.

Senator FARRELL: Recounted?

Ms White: No—counted. The process is that the polling places close down and all of the ballots go back to the outposted centre for the full count and scrutiny. That can go for quite a number of weeks.

Mr Rogers: Sorry—they are counted in an initial indicative count in the polling place on the night, but all of the ballots are then transported back to the outposted centre where, under the legislation, they have to be counted again.

Senator FARRELL: Yes; I understand that. You worried me when you said that they were all going to be transported before—

Mr Rogers: Before they're counted—no.

Senator FARRELL: I thought something had changed that I had missed—a piece of legislation.

Mr Rogers: Not at all.

Senator FARRELL: I have a question about the AEC mediator tender. There was a contract for \$40,000 for human resource services awarded to a company called Worklogic. The description of the service is 'mediator'. What is that contract for?

Ms White: That contract is to allow some leadership and mediation with some of our leadership team in New South Wales.

Senator FARRELL: Mediation?

Ms White: Correct.

Senator FARRELL: That suggests conflict?

Mr Rogers: It suggests that in any organisation we're always dealing with a number of issues, and this is one issue that we're currently managing, and this is a way of us doing that.

Senator FARRELL: So this is in relation to a particular issue where—

Mr Rogers: I cannot go into details—

Senator FARRELL: I'm not asking for details.

Mr Rogers: It's in response to something.

Senator FARRELL: This is a human resources issue?

Ms White: Correct.

Senator FARRELL: How long does the contract run for?

Ms White: It's a short-term contract. I will have to come back to you on that.

Senator FARRELL: Okay. Would you expect to have to extend the contract?

Mr Rogers: That's an ongoing matter at the moment, so I can't give you an answer to that one.

Senator FARRELL: Is it common practice to use an external mediator in these types of circumstances?

Mr Rogers: I think it is common practice. It's not particularly frequent for us to do that.

Senator FARRELL: I've got some other questions here.

CHAIR: Senator Farrell, you gave me false hope!

Senator FARRELL: The only promise I made was that I would not use the 15 minutes, and we still have—

CHAIR: Perhaps for everyone's benefit, you can give us an indication of how many questions you have.

Senator FARRELL: Two more questions. I don't want to mislead you. There might be three—no; two more questions. I want to talk about the Northern Territory and legislating for the two seats. As you know, there has been a campaign—I know you've taken a close interest in this—where the government and the opposition have been campaigning for two seats in the Northern Territory and the government recently committed to introduce its own legislation.

JSCEM has recommended a floor of two seats for both the Northern Territory and the ACT and that the allowance for the margin of error be abolished. Have you caught up with that?

Mr Rogers: I'm broadly aware. To be honest, I'm not across the detail. We are waiting to see what the legislation pops out. As was discussed at the hearing, there are potentially about 20 different ways of doing this.

Senator FARRELL: Can you tell us how the margin of error operates?

Mr Rogers: That's a specific rule for the ACT and the Northern Territory. Where the entitlement is a whole number and one-half of a quota or less, it enables us to recalculate. As you know, that's why the ACT ended up with a third seat last time; it was part of that calculation for that process. I'm a bit hesitant, because I'm not quite sure what the legislation is actually going to say. Until I've seen the detail of that, it is a bit hard to opine—

Senator FARRELL: No, your explanation was what I was after.

Mr Rogers: Okay.

Senator FARRELL: We are yet to see what the legislation is going to do.

Mr Rogers: I might use this opportunity to clear up one thing, on a little bit of reporting around the redistribution in the Northern Territory to one seat: I've seen a couple of people mistakenly say that it is an arbitrary act by the AEC. I just want to say that we are following the legislation step by step by step.

Senator FARRELL: I have not seen anybody make that claim either inside or outside of parliament.

Mr Rogers: Good.

Senator FARRELL: I certainly have not made that claim.

Mr Rogers: No, absolutely not. But I just wanted to, for the record—

Senator FARRELL: No, I understand completely that you are complying with the strict interpretation of the legislation, and I haven't heard anybody say anything to the contrary. Who knows what they say up in the Northern Territory, but that's—

Mr Rogers: Wonderful things, I think!

Senator FARRELL: Wonderful things, yes. If the NT's population were to increase to such an extent as to entitle it to three seats, is it wise to do away with the margin of error?

Mr Rogers: I'm loath to talk about that particular bit. The design of that process is really a matter for parliament, because there are so many different ways of doing it. I would leave that to the legislature to determine rather than me having an opinion on it.

Senator FARRELL: Many submissions to the JSCEM inquiry raised issues with the counting of the ABS population data—that it's difficult to get an accurate count of people living in remote communities and that there is severe undercounting. Given those circumstances, is it wise to try and keep the margin of error?

Mr Rogers: I am broadly aware of the commentary around that sort of margin—

Senator FARRELL: This wasn't what you were referring to earlier, was it?

Mr Rogers: Yes. I'm aware of some of the issues with the ABS data, but I don't have a view on whether that should be kept or not.

Senator FARRELL: In fairness, I think that is a separate criticism not of the commission but of the way in which—and I have heard those criticisms, I have to say. Some of my colleagues from the Northern Territory have been making those criticisms, I will freely admit. Have you looked at Antony Green's proposition, which was also endorsed by the National Party, that the Dean method's harmonic mean be used to determine entitlement? I understand this would mean that the point at which you round up or down to determine the number of seats would change. What effect would this method have on the states and territories? If you want to go away and think about that, or if you—

Mr Rogers: I think I do. I have the utmost respect for Antony Green. I do know when that was proposed. The reason I want to come back to you is—I might be wrong here—I think there was some thought that that method might not end up permanently fixing the issue. I just want to check that.

Senator FARRELL: I think you're correct there, Commissioner; I think it only fixes it for one election.

Mr Rogers: That's correct—or something along those lines.

Senator FARRELL: Yes—so I suppose I'm asking you to comment on that. Assuming parliament does legislate for two seats in the Northern Territory and that this happens before the end of the year, will you need to conduct a mini-redistribution for the Northern Territory?

Mr Rogers: I would have to look at the legislation before I could make that comment, because it could come out in a number of different ways. It could potentially come out with some sort of sunset clause or activation clause. I would have to wait and see what that is.

Senator FARRELL: Has this ever happened before?

Mr Rogers: A mini-redistribution?

Senator FARRELL: Yes.

Mr Rogers: My understanding is we have never done a mini-redistribution before.

Senator FARRELL: Okay. If you had to do a mini redistribution, how long do you think it would take you?

Mr Rogers: A mini redistribution is done as a result of the calling of an election. I'm not sure how long that would take, because we've never done it before. We have looked at it. There are also systems issues with a mini redistribution, which we'd have to work through as well, because the systems are not set up for that, but we're looking at it.

Senator FARRELL: I've got a few questions I'll put on notice. I want to ask you some questions about the portfolio budget statement's intangible assets. On page 89 of the portfolio budget statement, the balance sheet shows land and buildings valued at around \$71.6 million for the 2022 year. This is up from a budgeted amount in 2019-20 of \$5 million. That's a pretty significant increase. Is that good management on your part or is there some other reason? Mr Johnson's got a wry smile on his face there—

Mr Rogers: No. Look, it certainly wouldn't be mismanagement.

Senator FARRELL: No, I wasn't suggesting that—

Mr Rogers: But I'd have to dive into the full detail of that. As you know, we have a fairly large property portfolio. We're required to keep a number of individual divisional offices

open. We've got a footprint around Australia. That's expensive. I think we've got 85 properties around Australia. Staffing and property costs are expensive, and that's probably the explanation. Property costs have gone up over the last few years and they continue to rise, particularly in major cities. That might account for most of that, I think.

Senator FARRELL: Alright. There's a line item called 'intangibles', which also sees an increase in the forward estimates from \$17.6 million in the 2020-21 year to \$35.8 million in the 2021-22 year, and then \$64.4 million in 2022-23, and then \$58 million in 2023-24. Do you know what those intangibles are?

Mr Rogers: I'll just see if I can find those very quickly for you. I think it's related to our modernisation process. I'm told there's some capital expenditure in that regard, so that explains why that is, given we're doing that other project. It's related to that modernisation project and other money that we're putting into that.

Senator FARRELL: Thank you. That completes my questions.

Senator AYRES: I have a few questions. I note the AEC has lodged a notice of intention to deregister Clive Palmer's United Australia Party. On what basis is the commission intending to deregister the party?

Mr Rogers: You're probably aware that once every electoral cycle we review all non-parliamentary registered parties. We do a membership test and, where that membership test comes back as not meeting the criteria set out in the act, we then send the party a notice of intention to deregister, and the party then has the right to respond to that. The chief legal officer might provide dates and times here, but we did just that. Then, when we contacted the United Australia Party, my understanding is that this publicly ended up in the Federal Court earlier this week or last week.

Mr Johnson: That's right. A party that gets sent a deregistration notice has time to put in a statement and a new membership list to be tested, so we're back at that stage with the United Australia Party.

Senator AYRES: So it's on the basis of not enough members. It was originally able to be registered because of a provision that allows sitting members of parliament to register a party without having members. That's right, isn't it?

Mr Johnson: That's correct.

Senator AYRES: When he stopped being a member of parliament, did that mean his party then needed the requisite 500 members to retain registration?

Mr Johnson: Yes, that's right.

Senator AYRES: That automatically happened straightaway or was there a period—

Mr Johnson: That's just in the review process, which has been undertaken this year.

Senator AYRES: I understand Mr Palmer has lodged legal action to prevent deregistration. There was a hearing last week, was there?

Mr Johnson: Yes, in the Federal Court last Friday.

Senator AYRES: Are more hearings scheduled or—

Mr Johnson: It was a interlocutory injunction and he sought to stay the preceding. The court ordered that he provide a statement by last Monday, which he did provide.

Senator AYRES: He did provide it?

Mr Johnson: Yes, with further information for us now to investigate or test again.

Senator AYRES: So he's outside the timetable for responding, but he's got an injunction and provided—

Mr Johnson: No, he put it in within the time that the court ordered, which was actually the time that we specified for him to provide it by: last Monday, 19 October.

Senator AYRES: If the action's unsuccessful and the deregistration goes ahead, what will Mr Palmer need to do to reregister?

Mr Johnson: He'd need to go through the registration process, which is to put in the registration with 500 members.

Senator AYRES: That, you'll be pleased to learn, is all the questions I have this evening. Thank you.

CHAIR: Thank you, Senator Ayres. I just have one last matter.

Senator AYRES: That wasn't the deal!

CHAIR: It'll be quick. Mr Rogers, I have chaired this committee for about four years and, coincidentally, both the AEC and the ANAO appear before this committee. In that time, I've observed that ANAO reports can be contested. Sometimes the reason for that contest is partisan politics, and other times there's just a disagreement about the facts or about the way in which the audit was conducted. But never, in my time looking at audit reports and responses to them, have I seen anything like the eight-page letter that you sent Mr Hehir in response to his audit. I don't think it would be an exaggeration to say that it was blistering, and it raises very serious concerns about the quality of the report—not just that factual errors have taken place, in your view, but basically the whole conduct of the audit from its conception to its conclusion. There are two observations I want to make about this before I put it to you for your opportunity to make a comment. I don't think anyone could say that there's partisan politics involved in this report. No-one could reasonably accuse you of that, although they may make that accusation in debates about other ANAO reports. In any case, even in those partisan debates about ANAO reports, I've still never seen anything this comprehensive and significant. Why did you feel it was necessary for you to go to what are really quite significant lengths in response to the report?

Mr Rogers: Thanks, Chair. I might say a couple of things. I'm conscious of the time, but it's an important question that you've asked. The statement, to start with, is that we recognise that audit is critical. The public sector is better for having the ANAO, and I fully endorse the work that they do. I'm very conscious, though, that we're administering a scheme that was introduced close on 40 years ago, and it's been the subject of legal action; continual publication of results; probing at this committee and the joint standing committee; and a number of reports where our approach has been noted by the joint standing committee and others. We also think that part of that report is wrong at law, which we also pointed out. From our perspective—again, I don't want to be overly critical—it seemed to me that the ANAO adopted a position early on and then refused to budge in that, no matter what we said and no matter what we provided. I'm all up for transparency. We couldn't be any more transparent. All the returns are online. Every action we do is highly scrutinised and very public. So, for us, it was wrong, and they refused to budge on that and to put that in the report, so we felt the

need to defend the position of the AEC in the way that we're administering that scheme. The aim of that letter is not to be 'blistering'. If it comes across as blistering, it's just that we're agitated by the report, and we felt we needed to correct the record in a very strong way so that people didn't read the ANAO report and get the wrong impression.

CHAIR: You accused them in the conduct of this audit of some fairly fundamental errors in the whole design of the audit—in particular, the timing of the audit. Can you just expand on your concerns and why you were concerned about the timing of the audit?

Mr Rogers: Because the legislation, as you know, was changed at the start of 2019. When that audit started, we were halfway through the process of implementing that, through one electoral cycle. When that audit was announced—I think the topic of the audit is great; I think it's a really important area for Australia—we said it would be better to complete the process, as we normally do for an electoral cycle, before the audit was conducted. So, for example, rather than going through the detail of the notes, one of the things in their audit snapshot, I think—which was that one page summary—was that we hadn't achieved disclosure during the last financial year of something like 70 entities. For someone that's not aware of the detail of that, you'd read that and think, 'That's awful.' But I think 40 of those or 35 of those were from deregistered entities that had no requirement to submit a return under the then existing part of the act. We made that clear to the ANAO. And, with the other remaining 30 or 40, in any electoral cycle, as we've been saying tonight, we work through that constructively with the individuals or with the parties until those matters are resolved, and then those matters are declared. Instead, when you read that audit snapshot, it makes it seem like we didn't get those returns and we don't care, and therefore, that somehow, the scheme is faulty. And in my view, the funding and disclosure scheme is so important and we need to give people confidence that the parties are doing the right thing and that we're doing the right thing in administering—being a good model regulator for the parties. So that's why we put—I wouldn't call it a blistering response, but I acknowledge it was a very strong response. There are some other parts of that. Again, I'm not trying to—I respect the ANAO. In fact, I've written to the ANAO last week asking for assistance with the new project that we're doing. That's how important they are. But one of the issues is that they didn't ask to meet either myself or the deputy during the conduct of the audit, and, as you'll note, Senator, they've annotated my letter down to footnote number w or something, and I think their response to the fact that they didn't ask to meet with me—'Well, you could have met with us if you want to'—I'm sorry, that's—

CHAIR: Mr Rogers, the errors are one thing that you've identified. We're all fallible; we're all capable of making errors. What concerns me more than the fact that you've identified errors is the unwillingness to correct errors when they've been pointed out and what appears to be, at face value, a stubbornness about sticking to the predetermined position, which is what you indicated in your first response. Do you have any sense why the ANAO was unwilling to look at those factual issues and make those corrections?

Mr Rogers: I do not. If I was to try and put their hat on for a moment, to be reasonable, they'd probably say that, when they audit an entity, they get hit with a bunch of context, and context isn't important for them. What's important is that you've either done it or you haven't. And I get that. But life is actually about context and, occasionally, you've got to listen to what people are telling you. For that audit—and I'm only talking about that audit, not the ANAO—

we felt they didn't do so. It's such an important issue that I felt I needed to defend the process very strongly as a result.

CHAIR: Just finally, the other claim that you make in your letter is that the ANAO has misunderstood the law. That is a very serious one, because, of course, the ANAO doesn't just audit your compliance with the law but many other arms and agencies of government. Of course lawyers can disagree on the interpretation of laws, but I would have thought that some weight would be given to the AEC, given its expertise in this particular area of law, which I would say is unparalleled. But it doesn't appear, from the exchange between you and, as you say, the annotation that they've attached, that they have given much weight at all to your perspective on the law.

Mr Rogers: No. That's correct.

CHAIR: I guess we'll all just have to draw our own conclusions from that.

Senator FARRELL: Chair, can I ask one further question?

CHAIR: Sure.

Senator FARRELL: You obviously wrote the letter to the ANAO. Did they respond to that letter? Is there another—

Mr Rogers: No. Their response to my letter is the footnotes down to w, as part of the process. Again, I don't want to start a war with the ANAO. We rely on them. Having a strong ANAO is very important for the public sector. I fully endorse it. I've read some great audit reports, but it doesn't mean that the Auditor-General is infallible. We're the ones that administer this scheme. I've got the legislative responsibility for doing so. And so, when we think that they've made an error, I've got to point that out.

Senator FARRELL: So, your letter to them—is there another response to that?

Mr Rogers: No. Because, to be fair, my letter to them is part of the audit process which is then published in full, as a part of it.

Senator FARRELL: I get you. I understand that part.

CHAIR: If there are no further questions for the AEC, I thank you very much, as always, for your attendance here late this evening. It's not as late as sometimes, though, so we'll take that as a win. I thank all the witnesses who've appeared today and also Hansard, Broadcasting and the secretariat. We will resume tomorrow morning with the cross-portfolio Indigenous matters.

Committee adjourned at 22:14