



COMMONWEALTH OF AUSTRALIA

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## SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

**Family Assistance and Other Legislation Amendment Bill 2011**

WEDNESDAY, 15 JUNE 2011

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BY AUTHORITY OF THE SENATE

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**SENATE**  
**COMMUNITY AFFAIRS LEGISLATION COMMITTEE**  
**Wednesday, 15 June 2011**

**Senators in attendance:** Senators Adams, Boyce, Furner, Moore and Siewert

**Terms of reference for the inquiry:**

To inquire into and report on:  
Family Assistance and Other Legislation Bill 2011



|   |           |
|---|-----------|
| <b>AHMER, Ms Kari, Branch Manager, Special Projects, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>                               | <b>23</b> |
| <b>BAKER, Mr Ken, Chief Executive, National Disability Services .....</b>   | <b>16</b> |
| <b>BEATH, Ms Vicki, General Manager, Disability, Carers and Older Australians Branch, Human Services Portfolio (Medicare Australia) .....</b>                           | <b>36</b> |
| <b>BUFFINTON, Ms Fiona, Group Manager, Specialist Employment Services Group, Department of Education, Employment and Workplace Relations.....</b>                       | <b>36</b> |
| <b>CARROLL, Ms Liza, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>   | <b>27</b> |
| <b>DAVIDSON, Mr Peter, Senior Policy Officer, Australian Council of Social Service (ACOSS) .....</b>  | <b>1</b>  |
| <b>FOX, Ms Julie, Special Counsel, Legal, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>  | <b>23</b> |
| <b>HALBERT, Ms Cath, Acting Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>                                      | <b>23</b> |
| <b>HARTLAND, Mr Nick, Group Manager, Disability and Carers Group, Department of Families, Housing, Community Services and Indigenous Affairs.....</b>                   | <b>36</b> |
| <b>HATCH, Mr Andrew, Section Manager, Disability and Carers Payment Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs .....</b> | <b>36</b> |
| <b>HOBSON, Ms Leah, National Policy Officer, Australian Federation of Disability Organisations.....</b>   | <b>7</b>  |
| <b>IRVING, Ms Rachelle, Deputy Chief Executive Officer, Mental Health Council of Australia.....</b>   | <b>7</b>  |
| <b>LITCHFIELD, Mr John, Section Manager, Land Reform Branch, Department of Families, Housing, Community Services and Indigenous Affairs.....</b>                        | <b>23</b> |
| <b>LYE, Mr Michael, Group Manager, Families Group, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>                                 | <b>27</b> |
| <b>PIGRIM, Mr Derek, Branch Manager, Specialist Employment Services Group, Department of Education, Employment and Workplace Relations.....</b>                         | <b>36</b> |
| <b>QUINLAN, Mr Frank, Chief Executive Officer, Mental Health Council of Australia.....</b>  | <b>7</b>  |
| <b>ROSE, Ms Sharon, Branch Manager, Disability and Carers Payment Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs .....</b>   | <b>36</b> |
| <b>SALVAGE, Mr Robin, National Manager, Families and Child Care Program Branch, Department of Human Services .....</b>  | <b>27</b> |
| <b>WHITECROSS, Mr Andrew, Branch Manager, Family Payments, Department of Families, Housing, Community Services and Indigenous Affairs.....</b>                          | <b>27</b> |



**DAVIDSON, Mr Peter, Senior Policy Officer, Australian Council of Social Service (ACOSS)**

*Evidence was taken via teleconference—*

**Committee met at 11:11**

**CHAIR (Senator Moore):** Today the Senate Community Affairs Legislation Committee commences its public hearing for the inquiry into the Family Assistance and Other Legislation Amendment Bill 2011. I welcome Mr Peter Davidson from the Australian Council of Social Service, via teleconference. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. We have your submission, thank you. I do want to put on record our appreciation because it has been a very tight time frame and you understand that, and you understand the context. I deeply appreciate ACOSS's ever readiness to come forward and support the committee in any of the work we do on legislation. I also need to put on record that, as this committee is taking place during a sitting of the Senate, at different times depending on the circumstances, senators who are part of the committee may have to go to other meetings or leave when the bells ring. We will fully advise anyone who is involved of what is happening at the time. Mr Davidson, I am sure you would like to make some comments and then we will go to questions.

**Mr Davidson:** At the outset, I would like to say that we have concerns about the timing of the legislation and this inquiry. We consider that this inquiry is too rushed to deal with such a complex set of issues. The DSP proposals in particular are complex. Much of the detail is unclear or indeed absent from the bill and there are many vulnerable people potentially affected. It is important that we get it right. We think it is unrealistic to expect a September starting date. We are also deeply concerned about the lack of time for community organisations and advocates, including many of our members, to express their views on this legislation. I am thinking especially of disability organisations, because they take seriously the need to consult with people with disabilities themselves about the potential impacts on them. That takes a little longer, but it is worth doing. In relation to the content of the bill, firstly the DSP measure. We support attempts to encourage people to test their job prospects and seek employment assistance when they first apply for disability pensions, because there is a risk of people ending up on that payment for a very long time and becoming stuck there. We have two main concerns with the bill, however. Firstly, access to the higher pension payment is delayed, as we understand it for up to 18 months, although that is not specified in the legislation itself. So people who will become eligible for the DSP in any event, who have an entitlement to the higher rate of income support, will be left generally on a payment that is \$128 a week lower, namely the Newstart allowance, while they wait, in effect, for their claim to be processed. Now if someone applied for the DSP and their claim was delayed for 18 months due to a slow medical assessment, for example, they would be understandably upset. I think people will be understandably upset if the bill is passed and they apply for the DSP and find that there is up to an 18 month wait—even if it is not the intention of the government to delay people for that long.

Secondly, there is a tension between active participation in employment assistance and the need for applicants for the DPS to demonstrate an incapacity for work. For employment service providers, there will be a tension between establishing a working relationship with people with disabilities, and possibly having to report on their assessment of their work capacity. Though what role the providers will play in the assessment of work capacity is unclear from the legislation, unfortunately. For those two reasons, we recommend that schedule of the bill be opposed in order to give the government and the parliament more time to consider how to more fairly and equitably achieve the goal of encouraging people with disabilities to engage with employment assistance and the labour market so that they do not end up reliant, long term, on disability pensions.

One alternative option that we have raised in the submission is to impose the requirements in the first period after people commence on the disability pension. If that were done it would be all the more important to remove disincentives for people to move from the disability support pension into employment. We note that there was a budget announcement that people will be able to engage in paid work for up to 30 hours a week without losing their underlying eligibility for the pension. That is a good start, but more needs to be done on that score.

Moving on the family payments measures, we recommend that you oppose the proposed non-indexation of the FTB supplements and support the proposed non-indexation of the higher income thresholds. Our basic principle here is that measures to restore the budget to surplus, an objective which we support, should not impact on those with the least capacity to pay. In relation to the supplements, we believe they are an important part of the income support package for families at risk at poverty. People use them to pay their car registration, they use them to pay for new refrigerators and other major expenses. And although the effective reduction in the real value of those supplements amounts to a few dollars a week, a few dollars a week or a hundred dollars or so a year do make a

difference to the poorest families. I think it is not correct to treat the supplements as only a means to deal with the family tax benefit debt problem. They are a part of the income support package for families at risk of poverty. Whether they are paid in a lump sum annually or fortnightly, they still fulfil that important function.

Secondly in regard to freezing the high income thresholds, we believe that this is a better targeted approach to restoring the federal budget to surplus. This has nothing to do with assertions over whether families above a certain income level are rich or not. It has more to do with targeting family assistance towards those in the greatest need of support. Of course, given where we come from and the people we represent, we are most concerned about the adequacy of family assistance for families on the lowest incomes.

**CHAIR:** Thank you, Mr Davidson.

**Senator SIEWERT:** I want to start at the disability schedule and then go on to the supplement. I have a series of questions around the disability provisions. I am just going back to the front of your submission. My understanding from the DEEWR questions I asked DEEWR in estimates, which I do not know whether you have had a chance to look at, is that this provision is going to apply once you have been assessed for eight hours capacity.

**Mr Davidson:** Yes.

**Senator SIEWERT:** And then you are on Newstart. In your submission, and I will come to that in a minute, you talk about the difference between being on DSP and being on Newstart. When they are on Newstart they have an eight hour capacity, so that is a day, essentially. What financial implications does that have compared with, for example, if they are working a day and are on DSP?

**Mr Davidson:** The first thing I will say is that the assessment of eight hours capacity is always going to have an element of arbitrariness to it. The assessors are being asked to determine whether someone has less than eight hours capacity, eight to 15, 15 to 30 and so on. It really is like counting the number of angels on pinhead. Inevitably, there is some rubberiness around those assessments. If people are on Newstart rather than the DSP while they await the final assessment, two things will happen to the level of their income support. Firstly, they are on the maximum rate if they are a single person, which is at least \$128 dollars a week less. There is no suggestion in this legislation that they would be back paid that amount if they are found to be eligible later on anyway. Secondly, if they do obtain part-time employment, the income test is much more severe for Newstart allowance or Youth Allowance than it is for DSP—the thresholds are lower, the taper rate is 60 cents in the dollar rather than 40 cents in the dollar.

**Senator SIEWERT:** Sorry, can I just interrupt. I am still getting my head around the changes to taper rates, and what has been changed and what has not. I actually had some concerns about this and we were checking. I thought on Newstart they were improving some of the taper rates there, as well. Have I got that wrong?

**Mr Davidson:** My understanding is, and I may be wrong about this, that they are improving the taper rate for sole parents only.

**Senator SIEWERT:** Okay.

**Mr Davidson:** And not people with disability.

**Senator SIEWERT:** Okay, that is where the confusion is coming in.

**Mr Davidson:** And that is a problem, because both of those groups are required to seek part-time employment. The reason they have used it for sole parents is that it is not worth while for many sole parents to meet that requirement and work part-time. Exactly the same thing applies to people with disabilities—people with a partial work capacity. It is a welcome measure, but it is pity it was not extended to people with partial work capacity.

**Senator SIEWERT:** Okay. Sorry, I interrupted you. I apologise; I would have forgotten to ask that question. Can we go back to this issue, then, of the interaction of the partial capacity to work eight hours and Newstart. Where you are at is: the taper rate is not the same, so there is a disincentive there, or the taper rate is not as good. There is a disincentive there. Have you done calculations about what it would mean if you were working, say, a day a week? I am using that because of the eight hour-capacity and then you are on Newstart with the poorer taper rate.

**Mr Davidson:** We have not done those calculations, but the income test would cut in at a day a week on the minimum wage, because the free area for Newstart allowance is, I think, \$62 a fortnight. It would cut in well before you have worked a day a week and so 50c in the dollar is being taken out, whereas on the pension nothing is taken out until you are working more than a day a week. So yes, that would have an impact as well as the lower maximum rate.



**Senator SIEWERT:** Yes, okay. Thank you. In terms of this issue about who does the assessment, you commented before about the assessment being sort of counting angels on a pinhead. Have you got experience or have you done any monitoring or auditing of some of the capacity assessment processes about how accurate they are, how many have had to be reassessed, et cetera?

**Mr Davidson:** We have not had access to that kind of information in any detail, no.

**Senator SIEWERT:** Okay. That is a question that I need to check with the department: how many people are then reassessed?

**Mr Davidson:** Yes. I would suggest that. But, it is just the nature of the eligibility requirements. You are requiring the assessors to make some very fine judgments across a number of bands of hours. What this legislative change means is that whether you are above or below eight hours will make a big difference—if what you are saying is right, yes.

**Senator SIEWERT:** Okay. The other area I tried to tease out, and I am going to have to go back there again tonight, is this issue about the 18 months, when you come off this process of being on Newstart and go to your disability service provider and when you can then go onto DSP. Could you just go through what you understand? I have not been able to tease it out yet.

**Mr Davidson:** I do not understand much about this, because it is not in the legislation. I assume some of the detail, at least, would be spelt out in the proposed ministerial determination. But this is one of our concerns about the legislation. It imposes a requirement which does not appear to be time limited in any way, which in turn delays the payment of a higher rate of payment. It is delaying a claim for income support, in effect, which sets, we think, an unfortunate precedent. My guess as to what will happen is that there would be two assessments: one upfront, which determines whether this requirement would be imposed or they go straight onto DSP or they are not eligible at all for DSP, so there would be three options at that stage. And then at some point after the person has participated in a program of assistance—presumably employment assistance—for a period of time, there would have to be a reassessment, I expect, to judge whether they are still unable, with employment assistance, to obtain employment within the next two years. One of the issues that concerns us is whether the providers would be required to contribute to that assessment because that would have an impact on their relationship with the client and the amount of disclosure from the client to the provider and so on. But if they did not provide input, I wonder how Centrelink could assess whether participation in the program has made a difference or not. That is the underlying concept here: if people were to participate in an employment program, we may find that their employment prospects are greater than it seemed at first. There is a logic to that, but there is no detail as to how it would work in practice, and the 18 months that people talk about is not in the legislation, as far as I can gather, so as far as the primary legislation is concerned, the claim could be indefinitely delayed.

**Senator SIEWERT:** I may need to ask you a few questions on notice, but there is one question that I do want to ask now. You have said before that we should oppose this schedule; are there any amendments to this that could make it more acceptable?

**Mr Davidson:** There certainly would be. Our problem is, and our sector's problem is that we have not been given the time to consider the legislation properly to come up with amendments. But one option is, and we mentioned it in the submission, that people go onto the DSP in the usual way, but there is a requirement then that the people within this particular target group—whether it is eight-plus hours or whatever—have a requirement to participate in a program for a certain period of time after they commence. That would be an option. Another option, which should at the very least be considered, is that where people are found to be eligible for the DSP in any event, they should be back paid from the date that they claimed and that is a basic principle of social security law.

**Senator SIEWERT:** I interpret what you just said in terms of you not having enough time, but are you saying that there are possible other amendments that could make it more acceptable and actually achieve what the stated aim is, that is, help people into the workforce where they do have work capacity?

**Mr Davidson:** Yes, there would be. The other issue that needs to be addressed is the disincentive for people once they are on the DSP to seek employment because they might end up on Newstart eventually. There is some action proposed in the budget to deal with that, though it is not in this bill as far as I can tell, which is a pity. There is more that could be done on that front as well but we honestly have not had the time and we lack the information on what the government's intention is to really make useful suggestions.

**Senator SIEWERT:** I am going to run out of time but I have some more questions that I need to put on notice for you.

**Mr Davidson:** Okay.

**Senator BOYCE:** I would like to put on the record that the coalition shares your view, Mr Davidson, around the timing of the inquiry and how difficult that makes it for people trying to put in submissions and properly analyse the material. A new definition of 'severe impairment' pops up in this legislation. Could you comment on that?

**Mr Davidson:** This is what Senator Siewert was referring to earlier. It is an attempt to, I guess, subdivide those who may be eligible for the DSP under the existing rules into a category of people who have a severe impairment and who do not have this requirement and another group who has a less severe impairment to whom it would apply. We do not have a problem in principle with the DSP group, for want of a better word, being divided into those who may have a future employment capacity with assistance and those who have a manifest entitlement to the pension. It is what you then do with that categorisation that concerns us. In this case it is delaying an entitlement for people. We think there is a better way of dealing with the problem.

**Senator BOYCE:** I have often felt that we need an inquiry into the fact that DSP was an unemployment pension and to see whether we really needed two classes of disability pension, but I did not think this piece of legislation was the way to go about making that decision. We are going to have new impairment tables. Have you seen those and what input have you had into them?

**Mr Davidson:** No, we have not, to date, although we may be consulted over those. Part of the problem is there is a bit more time around the impairment tables, because they are—

**Senator BOYCE:** That was going to be my next question. How do we have one that starts in September and one starts in January?

**Mr Davidson:** It makes no sense at all. It would make much more sense to roll out both measures at the same time. A number of our members who work with people with disabilities are saying that, even a January start, is problematic because just to get people with disabilities across the issues so that they can provide input on legislation and its implementation, let alone to explain the new measures and engage people with them, requires time.

**Senator BOYCE:** Absolutely. I want to talk about the family tax benefit supplements.

**Senator SIEWERT:** Yes, I want to go on to that as well.

**Senator BOYCE:** You have talked a little bit about how people use those supplements and the fact that, whilst it is a very small amount on a weekly basis and how critical it is to people, could you just put a bit more flesh around that, please?

**Mr Davidson:** People whose families are living on, for example, less than \$30,000 a year, which includes many families on income support payments, need every dollar they can get. They particularly struggle with bulky expenses such as car registration, fridges breaking down, having to move house, which frequently happens if you rent privately, and finding the bond. These unavoidable expenses often come as lump sums and the feedback we have received from members is that people find those supplements particularly useful to meet those kinds of expenses and also to repay the debts that they have incurred to meet those expenses in the past including, for example, Centrelink debts. Bear in mind that the part A supplements are per child supplements, so if you have a large family it does make more of a difference, as it should, so it is more than a few dollars a week, on average, in those cases.

**Senator SIEWERT:** I have been trying to find out something, and the department has not yet been able to tell me. If you look at this change, along with the changes to the grandfathering provisions, which are not in this one, you will see where they are going to be taking a child's age down from 16 to 12, which then means that people are going to be bumped out onto Newstart much earlier. Have you done any analysis of the cost of layering this impact on top of that impact? Because there are multiple things in this budget that affect them.

**Mr Davidson:** We have not, to date, but you are right to be concerned about it. The changes for sole parents, if legislated, would result in, we estimate, a \$56 a week cut in their income support from the time the youngest is 12. On top of that would be a couple of dollars a week, converted into a lump sum, for each child from this measure. So it all starts to add up. The sole parent measure is much harsher in its impact because the amounts involved now are huge as the gaps between the pension and allowance payments have become massive in recent years.

**Senator BOYCE:** The gaps have become massive?

**Mr Davidson:** Yes, because the pensions were increased and the Newstart was not. The pensions are indexed to wages and the allowances are not, so every year that gap increases. We are deeply concerned about any

measure that bumps people down to the lower payments and, ultimately, we would like to see the gaps removed. That is the solution to many of these policy problems.

**Senator BOYCE:** I was also going to ask about the cumulative effect of things in this budget. Are you anticipating that the paid parental leave indexation—I realise it is a new payment—will have any effect? There is also the fact that there have been no changes in the tax rates either, which will lead to a bracket creep issue.

**Mr Davidson:** The paid parental leave will certainly affect low-income families, as well as middle- and high-income families.

**Senator BOYCE:** Exactly.

**Mr Davidson:** They will have less impact on families who did not have the opportunity to be employed in the first place, which are many of the people that we are concerned about. Our bigger concern was with the supplements, because they equally affect jobless families and those who recently had employment opportunities.

**Senator BOYCE:** Thank you.

**CHAIR:** Senator Siewert, you have some more questions?

**Senator SIEWERT:** I have got some more going back to disability. Is that okay? Can I flip back to the disabilities issue? In your submission you talk about the issues around the proportion of people and the misconceptions. You do not use that word; you use another word. You talk about the fraud and the misconception that it is older men with bad backs and the proportion of people on DSP.

**Mr Davidson:** Yes.

**Senator SIEWERT:** Do you think this measure will actually affect the number of people who are going on to DSP, the cohorts who are there et cetera?

**Mr Davidson:** It probably will. That is its purpose: to stop entries into the DSP. But we think that purpose is misconceived. The objective should be to assist more people with disabilities on income support to reduce their reliance on income support. When the welfare to work policy was introduced in 2006, with the same objective of reducing the numbers on the DSP payment, the main impact of that policy was to shift more people with disabilities onto Newstart. There are now over 90,000 people with a partial work capacity on the Newstart payment. So the difference for them is that they are on a lower payment. The difference is not that we have found them employment. Really, our goal should be to find people employment so that they do not need to rely on income support. This one-eyed focus on a single payment is, in our view, misconstrued. In fact, the proportion of the working age population in receipt of DSP has not been increasing since around 2004. We have been tracking that and there has been an up tick post the GFC, as one would expect, but the percentage of the working age population on DSP is around the same as it was in 2004. So it has levelled off, but we think this obsession with reducing the numbers of people on a particular payment is the wrong approach. The better approach is to assist every individual who has a disability and who is on income support, whether it is DSP, Newstart, parenting payment or whatever to obtain employment up to their capacity. The DSP, for example, should not be a so-called inactive payment. The rates of payment should be the same across the system. That would remove this obsession with reducing the number of people on a particular payment and gatekeeping in relation to that particular payment. Just pay everyone the same rate and assist them, within their capacity, to obtain employment and to leave income support.

**Senator SIEWERT:** So we have got 90,000 people who moved from DSP onto Newstart? Or are they people that would have gone onto DSP but are now on Newstart?

**Mr Davidson:** It is both.

**Senator SIEWERT:** Okay.

**Mr Davidson:** That is simply the number that are currently on Newstart, and it grows every year, so there has been a displacement onto the lower payment. We seem to be paying a lot less attention to that group than to the ones who are already on the DSP or who might potentially claim it in the future, again, because of this obsession with the pension payment. We put out a paper called *Beyond stereotypes* a little while ago, which dealt with some of the myths around the DSP payment. In fact, most of the growth in reliance on DSP since the mid-90s to the present time is a pure artefact of population ageing, of more people moving into the 45- to 50 years-plus cohort. It has nothing to do with fraud or rorting of the system or it becoming easier to get onto the pension. Those are not the factors that are responsible. The other one is the closure of many payments for mature age women, such as the age pension, so that those who had a disability had, instead, to test their eligibility for the DSP.

**Senator SIEWERT:** You made a comment just then and in your submission about tailored packages. What the government is saying is, 'Yes, we are doing this but, on the flip side, we are offering a lot of skills packages,'

that will do what you are saying we should be doing. What is your response? Do you think that the skills packages that are being offered are actually what people need in terms of individual support? Do you think it is sufficient in terms of the capacity of the numbers that they are offering?

**Mr Davidson:** I am not aware of a skills package specifically for people with disability. I could have this wrong. There is one for sole parents; there is one for teenage parents. But there are some major changes in this area, including the abolition of the Productivity Places Program. I think it is worth asking the government how many of the places in what replaces the Productivity Places Program will be earmarked for people on income support. A really welcome change they have made in recent years was the uncapping of the disability employment programs. They make a difference for many people. But the reality is that most of these applicants for DSP who will have this requirement imposed will probably not find employment in the short term. That has been the experience in the past. It was the experience with Welfare to Work. One year on, less than 20 per cent of those who were diverted on to Newstart left that payment and went into employment. It is still very difficult for people with disabilities to secure employment. Having said that, we welcome every measure that improves their job prospects. We are just concerned that, in the meantime, this group will be left on the lower payment.

**Senator SIEWERT:** In the wage subsidy programs there is an element for long-term unemployed and there is an element for disability placements. Do they go far enough? Do they replace what has been lost with the productivity places?

**Mr Davidson:** They are apples and oranges: the wage subsidies are a form of work experience in a regular paid job; the productivity places was vocational training. But many people need both. It is not a substitute for that. The number of wage subsidy places are very small, although we welcome those programs especially for very long-term unemployed people. Unless an employer is encouraged to give people a go, many people will not get a foot in the door. That is the purpose of the wage subsidy. They make a difference provided they are well targeted.

**CHAIR:** Senator Siewert, do you have anything on notice?

**Senator SIEWERT:** I have one more on my list that I have not asked. It follows on from what I was just asking. We have been talking about what is not available and what has been cut. What sort of package of support would you say needs to be given to individuals, particularly in the most vulnerable group?

**Mr Davidson:** Do you mean people with disabilities?

**Senator SIEWERT:** Yes.

**Mr Davidson:** Firstly, the specialist disability employment services. By and large, we do not think the JSA providers have sufficient resources to assist people with disabilities in this category of applicants for DSP. We would be very disappointed if most of them ended up in the JSA system rather than in the specialist disability streams. Secondly, many need vocational training. The qualification levels of people with disabilities on income support are well below community average levels. Participation in VET amongst people with disabilities is well below community average.

Frankly, the biggest gap is work with employers. It is not work with people with disabilities themselves; it is the intensive engagement and support for employers who are willing to engage people with disabilities, whether it is a physical disability, a mental health condition or whatever. That is the biggest gap, that is the biggest barrier. A lot more needs to be done in that area.

**CHAIR:** If there is anything that you think we have not asked and you want to have it as part of this inquiry, please get it to the secretariat. Thank you very much for your time.

**Mr Davidson:** Okay. Thank you.

**HOBSON, Ms Leah, National Policy Officer, Australian Federation of Disability Organisations**

**QUINLAN, Mr Frank, Chief Executive Officer, Mental Health Council of Australia**

**IRVING, Ms Rachelle, Deputy Chief Executive Officer, Mental Health Council of Australia**

*Evidence from Mr Quinlan and Ms Irving was taken via teleconference*

[11:54]

**CHAIR:** I welcome witnesses from the Australian Federation of Disability Organisations, via teleconference, and the Mental Health Council of Australia, who are in the room. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Ms Hobson we have not got a submission from you?

**Ms Hobson:** That is right.

**CHAIR:** Good, I just wanted to make sure I had not missed something. Mr Quinlan we have got yours today; thank you very much.

**Mr Quinlan:** We only just handed it to the secretariat.

**CHAIR:** I do want to express the committee's appreciation to both organisations. This is an extraordinarily tight timetable and we deeply appreciate the fact that you have both made yourselves available for this committee. Would either of you like to make an opening statement before we go to questions?

**Ms Hobson:** Yes, we would. Thank you very much for allowing the Australian Federation of Disability Organisations to appear before you today. We are a national peak body made up of other organisations which are of and for people with disability, so they must be controlled by people with disability for people with disability. AFDO is deeply concerned about the bill before you today. We very much would like to see it scheduled to be completely scrapped. We have several concerns. Firstly our concerns are ideological, that this measure is being brought in on the basis that the number of people with disability on Disability Support Pension are increasing rapidly. There is the assumption that simply shifting people to encourage them to participate in the workforce is going to solve that problem, when there are very real reasons why the number of people with disability on DSP is actually increasing, including better diagnosis of some conditions and our ageing population.

We are concerned that people with disability actually often want to work and they have considerable barriers placed in their way. Those might include lower rates of educational attainment, prejudice from prospective employers and a lack of access to support to help them work, including things like appropriate transport, flexible work hours or a physically accessible workplace. We are also concerned that placing some people with disability who have some work capacity onto Newstart has some inherent problems. People with disability often face higher costs of living because of their disability. That might be because of things that would seem obvious to you or me, like the need to take more taxis or the need to pay for more medications. But it is also things that might not be considered as disability-specific if you looked at them on the surface, such as somebody who has problems regulating their body temperature and needs to have heating and cooling systems running all the time, so they have higher utility bills. For those people, having \$128 a week less is going to be a considerable problem. It is also true that some schemes specifically set up to help people with disability, such as travel pass programs that allow for concession passes, sometimes require that people have access to the Disability Support Pension specifically, in order to be eligible to get access to those programs.

Finally, on the ideological front, we are very concerned that being obliged to look for work in order to receive some sort of payment from government creates a situation where people with disability are being set up to fail. Even those who do end up on DSP are going to be less encouraged to work because they have been looking for work under pressured, inappropriate circumstances. In terms of this particular piece of legislation, you mentioned earlier the very tight time lines that everybody is facing with this legislation—we are very concerned about that. The community sector in general has limited capacity to respond to these sorts of things in such a short time frame, and we are particularly concerned that organisations of and for people with disabilities are not being consulted appropriately with regard to the implementation of this bill. In terms of rollout, as well, you are looking at a maximum of several months before these measures come into place, and that does not allow for Centrelink staff and others to have time to be as well trained and as well versed in what the appropriate steps are to respond to the needs of people with disability.

We are also facing a lack of information here. The current review of the impairment tables have not been made public. AFDO has had a representative on the impairment table review committee, which was convened by the Department of Human Services, but that representative is unable to provide us with any real information about what the contents of the review are because of confidentiality clauses. So, when we are talking about assessing a person's severe disability under the proposed legislation here, we cannot make any comment as to whether that is going to be an appropriate measure or too medically focused, except to say that we are quite concerned that requiring a severe disability to be accounted for by 20 points in one impairment table means that people with a number of combined disabilities which might be considered moderate or mild in and of themselves will be required to look for work when it might not be appropriate for them.

We also have no clarity within the legislation about what constitutes a program of support. The definition provided seems to be very broad and it seems to be at ministerial discretion. We do not have any clarity about exactly who decides when a person is eligible for DSP and how long that is going to take in individual cases. Thank you.

**CHAIR:** Thank you, Ms Hobson. Mr Quinlan?

**Mr Quinlan:** Thank you, senators. I appear today to speak in particular about a couple of issues that we have in relation to the bill rather than the breadth of the bill. I would not want to give the impression that we have considered the whole bill and all its aspects. I asked Rachelle Irving to attend with me today because Rachelle has been part of the DSP Impairment Tables Advisory Committee. And I note, following on from the previous witness's evidence that, as witness Leah mentioned, Rachelle is bound by a confidentiality agreement in relation to the work of that committee, but we did feel it was appropriate to come and speak in general terms about the issues at hand which Rachelle has been following.

We are concerned, as I said, with a couple of particular aspects, particularly that the DSP impairment tables, and hence the determination of severe impairment, are able to be made only from one table. Several Australian and international studies have shown that people with disabilities such as mental disorders and substance abuse disorders will usually have co-occurring disorders, and a person with co-occurring disorders is likely to have greatly exacerbated negative impacts. A person with two or more moderate level disorders occurring across the tables when combined could result in a total equivalent of a severe impairment, when you combine substance, mental and physical disorders. The current amendment does not allow for cumulative totals across the tables and therefore does not take account of co-occurring disorders. Currently, all disorders are looked at separately. It is unclear whether the co-occurring disorders within one table can be looked at together to achieve the score of 20. Schedule 3 does not give an assessor discretion, it seems, to make such a broad assessment. So the assessor is not a position to make a judgment about the effect of cumulative disorders. Where a person is not severely impaired, they must actively participate in program support and we have questions about what happens if they are too unwell to do so or are unable to do so. There seems to be the potential in implementation for a large gap to open up which would affect some of those vulnerable people.

The amendment does not seem to take into consideration the episodic nature of both mental illness and substance use disorders. Given the complex nature of co-occurring disorders, we ask what happens to an individual while assessment takes place. It does seem that the assessment can be very long. We have serious concerns that these amendments have not yet been properly considered, particularly for those most at risk, and we ask what protections will be in place for those who might be caught in the gap?

We are aware, through our participation in the departmental committee, that vulnerability testing has just been completed in relation to the DSP tables but the outcomes have not yet been released, although they are due to be so in the next couple of weeks. So we have a question about how the results of those implementation trials will affect the development of amendments and the implementation of the bill.

Our recommendations are summarised in the hard copy submission that we have only just presented to you. In short, firstly, that a determination of severe impairment ought to be able to be made according to co-occurring disorders or impairments which occur across two or more tables. Secondly, that more discretion ought to be given to assessors to decide a person's overall level of impairment or functioning, rather than being restricted to a single table. And I might just note, as an aside, that I think the focus of the new assessments on functional impairment is a welcome move. Thirdly, there should be clarification and clear guidelines around what will happen for a person who does not have a severe impairment by way of total score and who is not yet able to participate in a program of support due to the ongoing or episodic nature of their illness or co-occurring disorders.

**CHAIR:** Thank you. Ms Irving, do you wish to add anything?

**Ms Irving:** No, I will just wait for the hard questions now.

**CHAIR:** Senator Siewert.

**Senator SIEWERT:** Thank you. Ms Hobson, I might go to you first, if that is okay.

**Ms Hobson:** Certainly.

**Senator SIEWERT:** I do not know whether you were able to listen to Peter Davidson from ACOSS. I was asking him earlier about what he thinks could be done to this bill to make it acceptable. The stated aim is to help people find work etcetera. I just wonder whether you think there are any amendments that could be made that would make this schedule better, and I realise that you are confining your comments to the disability schedule or the DSP schedule?

**Ms Hobson:** At this stage I think we would be very wary about wanting to make this one better without having seen that review of the impairment tables. Having said that, certainly some lengthening of the time frames for implementation would be useful. As has been raised by us and the other witnesses, some different requirements around the definition of 'severe impairment' so that it can be across several different impairment tables but perhaps still totalling 20 points. I think there is another concern there in terms of the definition of a program of support being at ministerial discretion because, in the first instance, we do not actually know what that definition of a program of support is beyond something very broad. But, secondly, it is very easy for ministers to change those sorts of requirements on an ad hoc basis if it is not in the legislation. So something like that would certainly be an improvement.

**Senator SIEWERT:** Can I go back to this issue of cost, because it is obviously one of the key areas here is that a person is going to have to be in this process if they are judged to have a capacity of eight hours or above. Going into the assessment process further, let us say that you have been assessed and you have got eight hours. You are then on Newstart, which you articulated and the ACOSS submission articulated that that means you are dropping down to \$128 a week. We are also going to investigate further this issue about taper rates, because the issue around taper rates is going to be changed for sole parents but not for those on Newstart, so you are also dealing with that and you can essentially only work a day a week. What you are saying is that, on top of that, you are layering all of these additional costs which people are not taking into account for the higher cost of living for those living with a disability. Have you done any calculations about what additional costs, on top of the \$128 drop, on the additional costs that you were just articulating—such as taxis, medication, heating, cooling, not having access to certain concessions?

**Ms Hobson :** We do not have any solid figures on those sorts of additional costs. The difficulty here is that getting any figures on the cost of disability is really difficult because disability varies so much and a person's needs can vary very much, dependent on context—where they live, whether they are from a non-English-speaking background, whether they are Aboriginal or Torres Strait Islander, what their level of community support is—so it is really hard to get any sense of what an average cost for a person with disability might be.

**Senator SIEWERT:** I would have thought that you would have done quite a lot of research around it, so does that mean you do not think that sort of information is available?

**Ms Hobson :** Yes, that sort of information is very scarcely available, and what we have is very limited in scope.

**Senator SIEWERT:** In terms of then going back to the impairment tables, you obviously just heard what Mr Quinlan just articulated in their recommendations. Would you be supportive of those recommendations as well?

**Ms Hobson :** Yes we would.

**Senator SIEWERT:** Mr Quinlan and Ms Irving, in terms of the impairment tables, it is a bit hard when I know that you are banned by confidentiality. I presume you have been putting these points to government through the process that you have been involved in?

**Ms Irving:** That is right. It is held by FaHCSIA, and FaHCSIA are present during the advisory committee meetings. We met a few months ago and, over the last couple of months, I understand that they have been usability testing the new draft tables and that has been finalised. I have just received an email in the last couple of days to say that we will be meeting towards the end of June to discuss those results, but that is all we know at the moment.

**CHAIR:** We will be asking the same questions to FaHCSIA, so you are secure.

**Senator BOYCE:** Ms Hobson, is your organisation a member of that advisory group as well?

**Ms Hobson :** Yes, that is correct.

**Senator SIEWERT:** Prior to or since the budget announcement, has there been any consultation with the group around this new process and how your involvement with impairment tables would interact with this new process?

**Ms Hobson :** No, we have not been consulted prior to the budget about these matters and certainly we have not had anything from our representative on the impairment tables committee indicating that the interaction between these matters and the impairment tables review has been brought up through that avenue either, We have stressed to government that we would like to be involved in further consultation on the legislation and implementation of these matters, but so far this is our first step in that process.

**Ms Irving:** I concur that that has been the process; there has been no communication whatsoever.

**Senator SIEWERT:** Thank you. What is your understanding of how this new process will work? We have received submissions—and Mr Davidson was articulating his concern about how this is going to work. You come in and you have your assessment capacity of eight hours. It is an indeterminate time; 18 months is thrown around as going through that process—and I will get to what happens with episodic illnesses in a minute, because that is going to complicate it even further. Have you had any discussions with government about how the process then works for you to go on to DSP if, at some indeterminate time, it is determined that you in fact do not have eight hours capacity and you should be on DSP?

**Ms Irving:** We have not had any communication with government at any level about that, and we would certainly like those questions answered.

**Ms Hobson:** We spoke to Parliamentary Secretary Senator Jan McLucas regarding this matter just after the budget. Our understanding from that discussion was that there would be some discretion in how long it would be before people with disability were declared eligible for DSP, but the time frame would not be capped at something like 18 months; it certainly did not appear to be a solid figure. Beyond that we were given no indication of what the processes might be.

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

**CHAIR:** We will be questioning the department this afternoon.

**Senator SIEWERT:** I do not know if you have had insomnia lately and read estimates, but I was trying to find out during that process how this relates to episodic illness, or how that would be taken into account. I was assured that it would be. It is not clear how it is when episodic illness is not necessarily taken into account with the eight-hour capacity. I know I am now asking a rhetorical question, actually, because you have not been consulted but, in any of the processes that you have been engaged in to date, do you have an understanding about how that may or may not work?

**Ms Irving:** We do not have an understanding about how it will or, for that matter, will not, work, but the main concern is that, if someone is assessed at a stage when they are functioning at quite a high level, what happens if they are not determined as being severely impaired and then one month or whatever down the track they are severely impaired and are not able to function? I have yet to see any type of information about their right of appeal to be reassessed and all those obvious issues that come up with the episodic nature of—particularly—psychiatric illnesses and substance use disorders.

**Mr Quinlan:** I think, too, the point that can become confusing between an episodic illness and what could appear, symptomatically, to be noncompliance with regard to attendance at appointments and so on is another area where there is a vulnerability, because it may take some time for the system to realise that there is, in fact, an episodic manifestation of illness rather than systematic noncompliance.

**Senator SIEWERT:** That goes to the point that Senator Moore was just raising—that is, this has been a problem consistently through this whole process, not just in the new process. I am wondering whether you have seen any improvements in the way that the very issue you have just described has been handled. Is there improvement in the process to date in terms of employment pathway planning—people getting pinged for noncompliance because they have not, for example, turned up to an interview, where it is not a wilful noncompliance but related to their illness?

**Mr Quinlan:** We are beginning some discussions with the government about intensive case management support—the measures introduced in the most recent budget—which I think actually hold promise if they are implemented appropriately. It is not merely case management; it is almost a form of having a personal advocate who can, perhaps, accompany some people through the system. Given the targeting of the right cohorts, that might well offer some genuine assistance to people. That is one of the few initiatives that I have seen in that space.



**Senator SIEWERT:** But that is not coming on board, if I recollect, for some time, is it?

**Mr Quinlan:** No.

**Senator SIEWERT:** But the time frame for this is September.

**Mr Quinlan:** Yes.

**Ms Irving:** And I guess one of the questions that need to be asked is whether or not the person is or is not taking part in programs or employment—that type of thing. Are the questions going to be asked as to why they are not, or will it simply be a matter of assuming that if there is a cross against their name they did not fulfil X, Y, Z?

**Senator SIEWERT:** The other point is having people skilled enough to know. Some people do not want to say, 'It is because I'm ill at the moment,' or 'I was ill then.'

**Mr Quinlan:** And possibly standing at a Centrelink counter with 20 people in the queue behind them and a junior staff member on the other side of the counter.

**Senator SIEWERT:** So have you had any experience—you probably have—with people feeding back information that that has not been working for them? You know the new approach, where you are doing more employment pathway planning et cetera, and there is a bit more discretion now about when people get non-compliance penalties; have you had any experience in that area recently about how the new process is working?

**Mr Quinlan:** I have not. I have a historic knowledge of the gap between the disclosures occurring in employment service providers generally and the disclosures occurring in other environments, and I think that creates an ongoing tension where employment service providers, who are under pressure to achieve outcomes, see noncompliance, whereas in other settings, where there is a bit more opportunity to perhaps sometimes explore some of those issues, we hear of disclosed episodic mental illness.

**Senator SIEWERT:** Has there been more of an ability for people with a mental illness to gain access to specialist disability employment providers versus JSAs?

**Mr Quinlan:** I could not say. I could certainly inquire of our network, though, and get an answer to that.

**Senator SIEWERT:** Okay—any experience you have got, and whether that has helped or not, because we have just heard again from Mr Davidson that one of the things that are needed is more access to the special disability employment providers. I understand there is going to be a bit more funding for them, but I would like to know whether that has helped or not.

**Ms Irving:** The other question is: will it be reaching those most in need?

**Senator SIEWERT:** Yes; thank you.

**Senator BOYCE:** Because of the short time frame for this inquiry, we have only ACOSS as a witness who has an interest in other areas of this bill, so before I ask questions around disability and mental health, could I ask either you, Ms Hobson, or Mr Quinlan or Ms Irving: do you have any observations or comments to make about the other aspects of this bill relating to the FBT supplements et cetera?

**Ms Hobson:** No, I do not.

**Mr Quinlan:** No, not specifically. I could make a general comment about the system of support, if you want to, because I think we are continuing to patch a system that is fundamentally broken, but that would probably take us to places we do not have time for today.

**Senator BOYCE:** Okay.

**CHAIR:** I think it is fairly similar to the ACOSS—

**Senator BOYCE:** Getting back to the disability side of it, do you have any views—or does anyone have any views—on what changes, if any, this will make for people who have been on a child disability allowance and go on to a Disability Support Pension?

**Ms Irving:** I am not really sure at this stage. I guess it is a little pre-emptive to talk about anything with regard to the new tables, because, as I said, we do not even know how the usability testing went or how it relates to any other—

**Senator BOYCE:** Yes. It just goes on the list of things we do not got enough information on.

**Mr Quinlan:** In the context of there being quite a philosophical shift in the way the assessment takes place, as I mentioned earlier, towards functionality, I could not emphasise enough the importance of usability testing. I think it is very welcome, but it really is going to tell us what the effects of these changes will be in terms of who gets assessed, who does not get assessed and which pathway people head down. There could be some quite

radical changes. There could be welcome changes and there could be unwelcome changes. We just do not know at this stage.

**Senator BOYCE:** I mentioned earlier, when an officer of ACOSS was our witness, that I think there is a case to look at the Disability Support Pension. It is seen as purely an unemployment pension, and we need to decide if that is what we want it to be, but I do not feel that a piece of legislation is the way to start making that change, although that appears to be what is happening. There is a statement in the explanatory memoranda saying that the new requirements would not apply to people with a severe impairment, 'such as those who are clearly unable to work'. Is it clear to you how we will know who is clearly unable to work?

**Ms Hobson:** From our perspective, no it is not. The capacity for a person with a disability to work is very dependent on the environment, the level of supports available to them. At present the law does not allow for any consideration of whether appropriate training or appropriate work is available to a person with a disability in their local area. For instance, a person living in a country area may be deemed capable of physically getting up and going to work each day and perhaps fulfilling an office job. But, for somebody with a physical disability, there may be a shortage of personal attendant carers in that area such that the person is not able to get out of bed before business hours start because the carers simply will not be available at those times. There may be a lack of public transport for that person. It is about a whole range of factors for each person which are not necessarily taken into account, even during job capacity assessments.

**Ms Irving:** I will make one comment. Was what you read under the summary section?

**Senator BOYCE:** Yes.

**Ms Irving:** It talks about claimants who have a severe impairment such as those who are clearly unable to work. I take that to mean that only those who have been deemed to have a severe impairment would be unable to work. Once again, it is missing the people who may not have been able to receive that full 20 points.

**Senator BOYCE:** Or are not always severely impaired.

**Mr Quinlan:** Or have cumulative moderate impairments.

**Senator BOYCE:** We have this new definition of severe impairment in 94 (3B). Could you comment on that? Are you comfortable with that? Tell me how you understand that that will interact with the impairment tables?

**Ms Irving:** I make the comment—it is the crux of our submission—that we are not comfortable with the current definition or what is included in a severe impairment. To stipulate that someone has to have 20 points in order to be severely impaired is probably reasonable in most circumstances, but it is not reasonable if it needs to be accumulated only from the one table. As Mr Quinlan stated, at the moment, if a person has a number of moderate disorders across a few different tables—certainly from the example given in the memorandum—that person is not considered to be severely impaired.

**Mr Quinlan:** Taking the point that Ms Hobson raised just before us, both disability and unemployment occur in a social context. It really is very misleading to assess individuals as if that social context does not exist. That is the area where the discretion of officers within the system becomes very important. That can be a two-edged sword if it is inappropriately monitored or guided. The importance of having high quality officers managing those assessment protocols within the broader social context is absolutely critical.

**Senator BOYCE:** There was quite a lot of evidence to the Productivity Commission along the lines that Ms Hobson was talking about. People were saying that they cannot hold down a job because they cannot guarantee that they can get out of bed, have a shower and get to work on time—not because they do not want to but because the care is not reliable enough or available often enough for them to do so. This appears to be using a very medical model of disability. What needs to change to make it better? How can we improve it? That is a better way of putting it.

**Ms Irving:** Coming back to the three recommendations that we made in our submission, I think that, when talking about a determination of severe impairment, it needs to be done across two or more tables. Certainly there needs to be more discretion, as well, for an assessor or assessors to be able to assess a person's overall level of impairment, as well as their level of functioning, and whether or not the disorder or disorders that they have are episodic in nature. I think that we need some more clarification around how it is going to work in terms of the program of support and participation and what the effects will be if someone is not able to take part in that if they have not already been determined to be severely impaired.

The other aspect that we have not really talked about, but which I note was covered in the ACOSS submission, is what happens to a person if it takes up to 18 months for a determination to be made. What is happening to them in the process? As always, those most at risk are going to be the ones who fall through the gaps.

**Mr Quinlan:** And I would not want our evidence regarding the discretion of officers to give a sense of there being a sort of open-ended blank cheque. I think officers could receive very clear guidance about the nature of how some of that discretion could be exercised in terms of making assessments about the level of personal support that is available to people, about the level of opportunity that is available in particular communities and about the likely duration or likely recurrence of episodes of illness. There is guidance that could be provided and monitored in that context rather than simply leaving it open-ended—sort of referenced to the discretion of officers or assessors.

**CHAIR:** Ms Hobson, you may like to add something?

**Ms Hobson:** The one area of real concern, as I said earlier, where I do not think you can make this better, is in terms of the cost of disability issues. That is partly because the costs of disability vary so much, as we have been saying, in terms of a person's social context and in terms of their disability, and partly because understanding what somebody might need over, say, an 18-month period is going to be very difficult to determine. I think that is a real ongoing overall concern and I am not quite sure how it will get fixed.

**Senator BOYCE:** Thank you. Could I just ask both of you, then: do you think this legislation should start in September? Are we ready for it to start in September—the disability support pension aspect of it, at least?

**Ms Hobson:** No, I would think not. I do not think that it is going to allow for staff within Centrelink to have enough time to be trained. It is not going to allow for the many gradual and varied ways of providing information to people with disability that Centrelink often uses to be enacted. For instance, if people are vision impaired, even to put out Braille copies of letters advising them of changes can take a great deal of time. It can take six or seven weeks. So we are talking about a system where people will not even necessarily be able to get the information and staff will not necessarily be able to get the training.

**Senator BOYCE:** Thank you.

**Ms Irving:** I would agree with what Ms Hobson said. As well as that, when you consider that the advisory committee is not meeting until the end of June, that gives approximately eight weeks between the time that they meet, regardless of any decisions they make when the rollout is supposed to happen. I do not see how that is possible.

**Mr Quinlan:** That will be the first stage at which the usability testing becomes visible. Literally, the first site will be at that time, so that is very difficult to see.

**Senator BOYCE:** So there will be live testing?

**Mr Quinlan:** It is difficult to see how there could be any thoughtful considerations and implications of that usability testing if it is to be rolled out eight weeks later.

**Senator BOYCE:** You have mentioned, from the mental health aspect, people who might simply fall through the cracks—between being able to undertake a program of support and not having a severe impairment. Could you expand on your concerns in that area?

**Ms Irving:** It is no secret that people with one or more mental disorders are going to have problems across a range of areas. They are, generally speaking, very often going to be socially excluded, they will have employment issues, they will have housing issues—these are all problems that are going to be multiplied, possibly, if it is all of a sudden decided that they do not have a severe impairment. Where does that leave them? Possibly they will not have a home, they will not have work and now have been excluded by the system that is supposed to look after them and try to reconnect them.

**Mr Quinlan:** It might reflect my lack of understanding but I do not think that we have a very clear sense of what a program of support actually constitutes. Again, depending on the nature of the program of support, people might be very well supported or they might be receiving marginal observation. So the gap in potential is enormous, really.

**Senator BOYCE:** I am not even sure that we know what a program of support is, do we?

**Mr Quinlan:** No, that is what I am saying.

**Senator BOYCE:** Whether it involves training or just care.

**Ms Irving:** And that is not something that has ever been discussed at the advisory committee.

**Senator BOYCE:** I am not quite sure what we do know about this.

**CHAIR:** Ms Irving, why do you say someone will be more likely to be disengaged from the system under this process than they are under the current one? You made your point about the aspects of the programs that would be

available but you went on to say that they could become disengaged from the system and lost because of this change. What is the reason for that?

**Ms Irving:** My concern is that if a person has two or more disorders, that cumulative effect would actually make them severely impaired. But according to what appears to be the way that this is going to roll out, that person may not necessarily be deemed to have a severe impairment because they do not have that cumulative total of 20 or more under one table. Therefore they would not be eligible to qualify for the disability support pension. If they are actually severely impaired, the chances are that they do not have a full-time job, because they are trying to get the DSP, so I wonder where that leaves them.

**Senator BOYCE:** And they would not have advocacy skills.

**CHAIR:** But that would be on the basis that the only engagement would be DSP. I take your concerns about the DSP process, but you say that the change by itself would mean that someone would not engage with the system. If they are engaging with the system it is a point of contact with the system, and it could well be a Newstart payment or any other form of payment. Your concern about whether they would qualify for the DSP under the proposal is well taken; you have argued that about the way the assessment model could work. But I am wondering why, by this change in itself, would that mean that someone would not stay engaged.

**Senator SIEWERT:** So you are on Newstart. You are then under the provisions of Newstart, which means you have to do employment planning all through the process. You are then continuing non-compliant, you end up in that cycle and you end up—

**CHAIR:** That is what I am trying to get Ms Irving to explain to me.

**Senator SIEWERT:** Is that what you mean?

**Ms Irving:** Yes. I do not have a good understanding of the system, but I presume that, if someone had one or more mental or substance use disorders, and if they were connected through Newstart alone, the services available to them would not be the same as if they had been given a severe impairment determination under the DSP.

**CHAIR:** That is a different program. But I am trying to find out whether, from your knowledge, they would necessarily be excluded from the system through the Newstart process.

**Ms Irving:** I could not say.

**Senator BOYCE:** I had an example recently, Chair, of a man with paranoia who was taken into a locked office with a stranger for his Centrelink interview. It is the sort of thing that can happen that makes it difficult for people to be compliant.

**CHAIR:** That is a really serious issue to be taken up with Centrelink. Ms Hobson, you actually talked about the kinds of issues Senator Boyce has just raised about the Centrelink training and awareness.

**Ms Hobson:** That is correct. Just to go back to the point we were talking about in terms of what, particularly, about this system might make people less engaged, I think it becomes a cumulative set of issues for people. Maybe you are dealing with housing issues, maybe you are dealing with substance abuse issues, maybe you are dealing with just having come out of prison—and the rates of people in prison with a number of different disability types are quite high. Then you are trying to gather all of those aspects of your life together. Then you have the additional financial pressure of having \$128 a week less and the additional pressure on your organisational skills and your energy levels to actually go and meet those compliance rules by going to whatever your program of support is—whether that is an hour a week or three or four days a week, we do not actually know. So it can provide a whole set of new potential pressure points for people so that they are not actually dealing with some of those other issues in their lives as well, I think.

**CHAIR:** Which are all combined but not linked specifically to the pension.

**Ms Hobson:** Yes, but if you deny somebody the pension and then add those other pressures of compliance, you then really put a lot of pressure on people.

**Mr Quinlan:** I might just add that the imbalance between the Newstart allowance and the DSP in cash terms creates pressures for allowance shopping, for want of a better description. Similarly, an imbalance in the support structures that go with those benefits also creates a pressure for allowance shopping because people are keen to find the support that they need. People categorised as being highly disadvantaged in the employment services might be on caseloads of 200 or something for their intensive support, which is no support at all really. I think the challenge that we have is to ensure that people are not moving from benefit to benefit, not just to find better cash support, but also to provide better social and medical support. I think that is the challenge we face; it goes to the questions I raised earlier about redesigning the system.

**Senator BOYCE:** We were talking about cumulative effects. We have got reductions in funding for the better access to mental health services initiative and no indexation for advocacy organisations. There are things that are coming through. Could you comment on concerns that you might have around the cumulative effect of things that are happening in the disability and mental health sectors?

**Ms Hobson:** Certainly, the lack of coordinated, ongoing, decent funding for advocacy is a real concern in this regard. So if you are going to bring in a new system like this, you need to ensure that people have access to adequate individual advocacy and systemic advocacy. There has been some indexation of the national secretariat program this year, but I am not aware of whether that is going to be ongoing or not. Certainly, we have a report from 2009, I think, suggesting that the government do some mapping of advocacy supports and look at where the gaps are and what needs to happen for people with disabilities that has not yet happened. Certainly, we believe that that would be central to allowing people with disability to function well under this system. You mentioned the Productivity Commission inquiry earlier, and I will go back to that point about people living their life in context. Some people are not necessarily going to be able to access a program of support, let alone employment, without appropriate care and support provided by the community. At the moment that is not happening, so we really need to ensure that those things move forward for this to even have a hope of being successful.

**Mr Quinlan:** I would perhaps just observe that our funding for advocacy is not yet determined beyond 1 July, for instance, so does—

**Senator BOYCE:** I am sure all the advocates are happily waiting for the day.

**Mr Quinlan:** As we have had good assurances and so forth, but really in a system that is going to be operating well into the future, I think it is incumbent on us to establish a bit more stability around some of those issues. I really think the capacity of the sector has been dramatically reduced over time as we have seen more and more funding directed towards a transactional, sort of service based, model rather than broadly considering some of the issues. These are complex issues for organisations to get their heads around. So I think the funding is part of it.

But the second part of it is the processes, of course, and we have had some of those issues. As welcome as we will always find our participation in various advisory committees and so on, to receive—and it is not the case in this example—documents marked 'not for circulation' and then to see your name appear as someone who has been consulted on things, I think is a real challenge. We have to find a way of ensuring that organisations can genuinely consult with their constituencies and take time to consider some of these issues. Sometimes the rush to get to implementation, I think, is a really serious impediment to that taking place.

**Senator BOYCE:** You are saying that your name appears as you having been consulted, but in your view you were not?

**Mr Quinlan:** That is absolutely correct. As I said, just to be clear, not in this particular case. Rachelle has been participating in that advisory group and it has been conducted in good faith. But I am saying as a general observation, it is harder and harder to do diligent consultation on some of the sorts of issues that are important to us.

**Senator BOYCE:** Thank you.

**CHAIR:** Thank you very much. And thank you, Ms Hobson. If there is anything that you want to add that you have not had the chance to put into the discussion, please just be in contact with the Secretariat.

**Ms Hobson:** Thank you.

**Mr Quinlan:** Thank you for the opportunity, Senator.

**CHAIR:** We will now move to National Disability Services.

**BAKER, Mr Ken, Chief Executive, National Disability Services**

[12:46]

**CHAIR:** Thank you, Mr Baker, for coming to see us. You have information on parliamentary privilege and the protection of witnesses and those things. Mr Baker, do you have any comments you would like to open with? I will then go to questions.

**Mr Baker:** Thank you for the opportunity to meet with the committee. National Disability Services, just for the record, is the peak body representing non-government disability services around Australia. It has around 700 non-government organisation members. I would like to confine my comments to schedule 3 and the bill and about which I have mixed views. I think one relevant aspect of the context is the low employment rate of people with disability in Australia, which is low by international standards. The system overall in Australia, which supports people with disability into employment, is not functioning particularly well. There are around 20 OECD countries that have higher employment rates for people with disability than Australia. The disability support pension is an important safety net, but it is a trap for some people. We know that the average length of time which people spend on DSP is around 12 years and that the exit rate from DSP to employment is very low. In the last year, it would be no higher than 2.5 per cent of people. To the extent that this measure is focused on encouraging people to engage with employment services and move down a pathway towards employment, I think that is a laudable intention. The second, I suppose, attractive aspect of this proposal is that assessing a person's work capacity, and particularly their future work capacity, is inherently difficult and speculative as it is done at present. It is done in the abstract of any actual work or employment. It is difficult to assess a person's work capacity in the absence of a particular job, and to test their capacity in relation to employment support and work. So this proposal would require more people to actively engage with a program of support with a view to testing their work capacity in context. The big policy challenge in this area is to align expectations with work capacity, and that is a difficult thing to do. There is a risk in imposing expectations on people, expectations to participate which they cannot meet. There is a risk also of low expectations, warehousing people and saying to people 'You do not have the capacity to work, therefore you will not get access to a program of support.' I think there are risks in both directions and that policy challenge of aligning expectations with work capacity is absolutely essential to all of this.

I do have a number of areas of concern, some of which echo evidence you have heard. There are four areas of concern that I have. The first is the uncoupling of this measure from the review of the disability impairment tables, in two senses. The first sense is in the implementation date. When this measure was first announced in the 2010 budget it had an implementation date of 1 January 2012, which coincided with the implementation date for the new revised disability impairment tables. That connection has now been split, and I think that is problematic. The second sense is this: although the review of the disability impairment tables has considered how scores across tables may be combined, its terms of reference have not allowed it to consider the situation where gaining 20 points through one table produces a very different outcome for the person than a score of 20 through a combination of tables. So that scenario, which is at the centre of this section of the bill, has not been considered through that review of the disability impairment tables. So I would say it may be reasonable or it may not be reasonable to have that distinction between severe disability and other more moderate forms of disability, but it has not properly been tested by the experts that are part of that review of the impairment tables as far as I am aware.

The second concern I have is that I think there is a risk that this bill will create an unintended disincentive to work. So, some people will benefit from the requirement to actively participate in an employment program, but other disability support pension claimants are likely to approach their period of required participation in a program of support as the period during which they must demonstrate their incapacity to work and therefore their eligibility for disability support pensions. Related to that there is unsurprising evidence that motivation is a key predictor of work capacity. So if a person participates in a labour market program willingly and with a high motivation to work, they are much more likely to succeed, to obtain employment, than if they participate in it with low motivation or, in this possible case, a motivation to demonstrate their incapacity to work.

This brings me to the third point, which is the impact on disability employment service providers, who I am assuming would be included under the heading of program of support. Disability employment services would already have some clients who have qualified for the disability support pension through a cumulative score of 20 points across tables. The difference between their current situation and the situation after this measure is implemented, is that this will be an expanded group, and the additional people within this group will include

people who have a low motivation to work. So this is a new cohort of participants who, for that reason, will be much more difficult to work with. This, they think, creates an added pressure for disability service providers to achieve outcomes in what is a highly competitive environment for them. They are entering a period where most of the disability employment services are going to be subject to open tender. At the same time their funding per client, in real terms, has fallen. The latest figures I have, which are from the 2011 report on government services, show that funding per open employment service user for the disability employment services program fell, in real terms, from \$4,108 in 2003-04 to \$3,621 in 2008-09. Funding per client has not increased since then, and although the 2011 budget projects increased funding for disability employment services, all of that funding is for an expansion of clientele. None of it is for increased fees or outcome payments for clients. So that will mean a continued reduction in real terms for funding per client, during a period in which a new cohort of clients will engage with those services, some of whom will not want to be there.

My fourth area of concern is one I think you have heard about already, which is the lack of detail about matters such as the minimum period of participation in a program of support and the consequences for a person in not participating. Are these consequences the same as they would be for a Newstart participant? Will their participation requirements take into account their impairment? These are important questions of detail which I would like to know before the bill became law. Thank you.

**Senator SIEWERT:** I go back to the point you were making about the new cohort, to make sure I understand it correctly. At the moment DES providers have got some people with a cumulative 20 across the tables?

**Mr Baker:** Yes.

**Senator SIEWERT:** Do I infer from that that there are not a lot, and as a result of this you will get a lot more?

**Mr Baker:** Yes, I think that is essentially right. Because participation in employment is voluntary for people who are DSP, the current participants are there because they want to work.

**Senator SIEWERT:** So flying from this measure, providers will then have to provide services to a larger number of people who have potentially complex disabilities because they are across the tables? They do not make the 20 points from a single table but that does not mean that they do not have a number of even moderate disabilities that add up to being quite complex in terms of them trying to find employment?

**Mr Baker:** Yes, that is right. They may have a complicated range of impairments. So for that reason they may be more difficult to place in employment. Add to that the fact that a significant proportion will be there because they are forced to be there and that they may well see their time there as a way of demonstrating their eligibility for DSP.

**Senator SIEWERT:** Okay, so this new cohort is going to be if you have an assessed capacity of over eight hours, which is a further reduction on capacity. At the moment it is 15, isn't it?

**Mr Baker:** Yes. The current test is capacity to work 15 hours.

**Senator SIEWERT:** So this is eight hours, which is essentially a day awake. Is that going to make it harder as well?

**Mr Baker:** I think it will, yes, because it assumes that people who can work less have a higher level of impairment.

**Senator SIEWERT:** My next question is in terms of any consultation the government has done with you before the measure was introduced or since this measure has been introduced—I'll leave it at that, because I have a follow-on question from there.

**Mr Baker:** There has been no consultation about this particular measure, no. I think it was a surprise that it was brought forward by four months in the 2011 budget, because I think people within the sector anticipated that what could be quite complex implementation issues would be dealt with during a consultation process beginning about now.

**Senator SIEWERT:** Okay, but when we are talking about 'bringing forward', we are talking about the use of the new impairment tables.

**Mr Baker:** I am talking about bringing it forward. This measure, when it was announced in 2010, was due to be implemented on 1 January 2012.

**Senator BOYCE:** But the impairment tables were due to come in then too, weren't they?

**Mr Baker:** Yes, and still are.

**Senator BOYCE:** And now it is out of sync.

**Mr Baker:** I understand the impairment tables are still due for implementation then.

**Senator BOYCE:** In January?

**Mr Baker:** Yes.

**Senator BOYCE:** But this is due to start in September.

**Mr Baker:** Yes, exactly.

**Senator SIEWERT:** It is only clear then that they are going to be—

**Mr Baker:** It was announced, I think I am right in saying, in 2010. The review of the impairment tables and this measure were announced essentially as part of the same package and interlinked in ways that are clearer now that we have seen a bit of the detail, so it seems odd then to decouple their implementation timetables.

**Senator SIEWERT:** It is unclear—and you have made the point too, I think, and others have—how the assessment process is going to work. People are going to go into this new process—on to Newstart—and then it is unclear how long that process is going to last, how the assessment will be carried out and what role providers will play in that assessment. Do you have a clear understanding of that?

**Mr Baker:** No; I think providers will play no part in the initial assessment.

**Senator SIEWERT:** I am thinking more of the subsequent assessment—you get assessed and you have eight hours capacity, you are flicked into the process and you are with your service provider, and you are then supposed to demonstrate a capacity to work or not. I accept the point you have made about people seeing it as a process of demonstrating you cannot work. But you then go through a time period—and 18 months has been thrown around—after which it is not clear what happens next. So you are continually unemployed and you have all the issues we have just talked about. What happens to you then? Where does the assessment process start? Who does it in order for you to move over to DSP if it is clear that you cannot work?

**Mr Baker:** It is unclear what the decision-making process is if you have not succeeded in obtaining employment through an unspecified period of program support. I would like to see the service providers, who have considerable experience and expertise in dealing with people and have a pretty good sense of the likely outcomes a person will achieve, trigger some of those decisions. I think that would be a good way of mitigating some of the risk as well.

**Senator SIEWERT:** But that has not been discussed with you?

**Mr Baker:** It has not been discussed with me, no.

**Senator SIEWERT:** So this is coming in September?

**Mr Baker:** Yes.

**Senator SIEWERT:** I am going to go back to the consultation issue. What process has been gone through to get the providers up to speed by September?

**Mr Baker:** None that I know of.

**Senator SIEWERT:** So there has been no discussion about increased workload?

**Mr Baker:** No.

**Senator SIEWERT:** And no discussion about how you then handle the cumulative impact we have just been talking about—the more complex cases?

**Mr Baker:** No.

**Senator SIEWERT:** In terms of the work capacity assessment at the moment, what is your experience of that being accurate?

**Mr Baker:** I get feedback from our members about this. Broadly there would be a view that it is patchy, meaning that there are still a considerable number of inappropriate referrals. In some situations it is working well but in others it is not. It is quite patchy in the way it is working.

**Senator SIEWERT:** Do you think that is related to the capacity of the assessment and who is doing the assessment?

**Mr Baker:** Yes, I think it is to do with the capacity of the job capacity assessors—their knowledge, their experience, their understanding. It does relate to the point I raised earlier about the inherent difficulty of assessing work capacity in the abstract. They are not only required to assess current work capacity; even more problematic is the concept of future work capacity. That is one, certainly, that NDS's members struggle with—the idea of future work capacity.



**Senator SIEWERT:** Do you have some suggestions for how you could improve the issue around dealing with the assessment process in the abstract? I understand what you mean. Do you have any suggestions? Have you talked to the department or government about it?

**Mr Baker:** I think a greater role for the service organisations in this assessment is needed. There is a large amount of hands-on knowledge among those providers. They deal with many thousands of people. They deal with them in the context of knowing what employers want in dealing with employees and in dealing with job redesign issues all the time. I think you need that sort of concrete knowledge, and I think they need to have a greater say—not to be the sole determinant but to have a greater say.

**Senator SIEWERT:** I have been asking all of the witnesses this: do you think this is fixable and what amendments would you suggest to make it fixable?

**Mr Baker:** I think there needs to be more detail about many of the questions you have asked—about what participation in a program of support means, how long it is required, how the subsequent decisions are made for someone who has not succeeded and when those decisions are made. The second thing is about how you rely on the disability impairment table review with this. Ideally, I think we would have them implemented at the same time. I think it would be good if the reference group could consider this issue.

**Senator SIEWERT:** Yes, okay.

**Mr Baker:** It would be good if they could be given a specific term of reference to consider this.

**CHAIR:** Mr Baker, is that the advisory group? Is that the same group?

**Mr Baker:** Yes, the reference group.

**CHAIR:** I always get confused with terms.

**Mr Baker:** I think it is the reference group.

**CHAIR:** Is your group on that?

**Mr Baker:** Yes.

**CHAIR:** A specific term of reference?

**Mr Baker:** Yes.

**Senator SIEWERT:** To consider the combination?

**Mr Baker:** Yes, in the context of this bill. As I say, the review has considered matters of how the scores should and should not be combined, but it has not done it in the context that achieving a score of 20 through a combination will have a very different outcome for a person and a person's expected participation requirements than achieving 20 points under a single table. I think it just needs to be tested. There are all sorts of combinations that could occur and produce that effect, and I am not in a position to make any statement about whether it is a reasonable thing or not.

**Senator SIEWERT:** Okay. Other amendments?

**Mr Baker:** The third would be to give disability employment service providers the power to trigger a review of the referral in a greater way than they have at present for this group. If a person comes to them and clearly does have a combination of impairments that puts them in a position where placing them in employment will be extremely onerous, extremely difficult, then I think they should have the option to raise that issue and have it dealt with.

**CHAIR:** Rather than let it go through months and months of processes.

**Mr Baker:** Yes, exactly.

**Senator SIEWERT:** If you think of any more, can you send them to us? My final question is around the brokers. The budget contained funding for 10 brokers that are initially going to be in place for a year, from memory of my questions with DEEWR. Are you aware of those employment brokers? Have you had any conversations with the government about it?

**Mr Baker:** This is the small- and medium-sized business as a parallel to the national scheme which operates for big business?

**Senator SIEWERT:** Yes, that is right. There are 10. They have not decided the locations as yet, if I remember correctly. Have you been involved in those discussions? Do you know anything about them?

**Mr Baker:** No, I think it is fair to say I have not been involved in those discussions.

**Senator SIEWERT:** And you do not know anything about the initiative?

**Mr Baker:** No, other than what is in the budget and what has occurred in budget briefings. There has not been much detail about that other than that it will mirror the functions of the large scheme.

**Senator SIEWERT:** Thank you.

**Senator BOYCE:** Mr Baker, a number of our witnesses simply suggested that we should recommend opposing schedule 3 until at least a lot more detail is available. That is not the view of the NDS?

**Mr Baker:** I would like to see the detail, I suppose. We have not made that jump. In other words, it may be that the detail can be provided, and that would influence how you would change the bill.

**Senator BOYCE:** By September, you would expect—

**Mr Baker:** You are meeting with FaHCSIA this afternoon, you may get detail.

**Senator BOYCE:** Let us hope. Do you understand what a program of support will be?

**Mr Baker:** No, I do not have any special knowledge about that. I have assumed it would include Disability Employment Services and probably—

**Senator BOYCE:** So the support would be for work participation or work readiness or what?

**Mr Baker:** Disability Employment Services help prepare people for employment, they help find employment and they may help maintain a person in employment on an ongoing basis if that is a requirement. So finding a job may involve negotiating with an employer around redesigning a job that is appropriate for a person.

**Senator BOYCE:** Yes. You see them as being work-focused programs?

**Mr Baker:** Very much work focused. It is a very prescriptive program—too prescriptive, in my view, to deal with the diversity of clients.

**Senator BOYCE:** What is too prescriptive a program?

**Mr Baker:** The Disability Employment Services program is a highly prescriptive program. In other words they are—

**Senator BOYCE:** So you think they would just continue to use the existing program; is that what you are saying?

**Mr Baker:** Yes.

**Senator BOYCE:** Because it is not clear to us here.

**Mr Baker:** No, and it is not clear from the bill. So I am making assumptions here that they will not develop a new program before September.

**Senator BOYCE:** In your view what does it need?

**Mr Baker:** What does that program need? It needs more flexibility at the very least. I think it also needs more funding to take account of the additional needs that the clientele will have.

**Senator BOYCE:** In terms of consultation around the various aspects of schedule 3, could you tell us what National Disability Support has been involved in and what you have been consulted on?

**Mr Baker :** To the extent that it is linked, we have been participating in the review of the disability impairment tables. But, as I said, that has not dealt with this particular scenario. In relation to this particular measure, there has been no specific consultation around that.

**CHAIR:** And that is from the time it was announced in last year's budget?

**Mr Baker :** Yes.

**CHAIR:** So the overriding concepts were announced in last year's budget, but in that interim time there has been no discussion, or consultation about how it will work?

**Mr Baker :** No. There has been an expectation that that would occur, and that it would occur during the latter half of this year.

**CHAIR:** On the basis of the starting date being—

**Senator SIEWERT:** Once the impairment tables are done, is that the idea?

**Mr Baker :** Yes, and in the lead up to the implementation date—I think January.

**Senator BOYCE:** There has been a number of concerns about people falling through cracks and whatever. What happens to people who currently come into a disability enterprise and cannot perform the work that it was anticipated that they would?

**Mr Baker :** A disability enterprise specifically?

**Senator BOYCE:** Yes.

**Mr Baker :** Disability enterprises do accommodate people with very low productivity, and some of them as you know, retain positions for people even though they are really quite unproductive because the people get a lot of value from work, from the social networks they get at work, and from the status that work brings. Typically, if they do not succeed at a disability enterprise then they have to go to a state administered community participation program, and those places can be in short supply.

**Senator BOYCE:** Could you describe what happens in a similar situation for someone who is in open employment?

**Mr Baker :** If they do not succeed, there are options of recommencing within the program; it is not a case of you get one shot at it and if that does not work out then you do not get a second shot. You do get an option of a second shot, but it depends upon your participation requirements. If you are a recipient of the disability support pension then you are a voluntary participant, so if you do not choose to participate any further then you are not required to. Some of those people would go to a disability enterprise.

**Senator BOYCE:** You talked about unintended consequences. You were particularly talking about people who were sort of trying to prove that they are more disabled than the assessment has said they are. Is that correct?

**Mr Baker :** Not quite that. The measure essentially says that a decision about a person's eligibility for the disability support pension will be postponed until they have tested their work capacity, and the way they test their work capacity is to engage in a program of support. The decision to be made down the path will hinge upon how well they demonstrate or do not demonstrate their work capacity within program support. There will be some people who will see that as a period in which they need to demonstrate that they do not have capacity to work and therefore that they are eligible for DSP. That situation does not exist at present because the decisions of eligibility for DSP precede their participation in an employment program.

**Senator BOYCE:** We had quite a lot of evidence earlier around the fact that this does not appear to be time limited. What is NDS's view there?

**Mr Baker:** The bill is not specific. That is a detail that is absent from the bill and I think it is important detail. It cannot be an unlimited process.

**Senator BOYCE:** But if a time limit were to be put on that, what should it be? And should it be done this way or was the older system preferable?

**Mr Baker:** There are certain timelines that are built into the programs at present, such as the disability employment services program, but for this particular group, as I have indicated, the disability employment service provider should have a greater capacity to flag the inappropriateness of this person's participation, or forced participation, in the program. So I do not have a firm view about time requirements but I think there needs to be some gradation or flexibility in that. The experience at present of providers is that there are a significant number of people who have been referred to the wrong program, just inappropriately referred.

**Senator BOYCE:** Why is that? What needs to change so that that does not occur?

**Mr Baker:** I think greater expertise on the part of the job capacity assessors, but also greater capacity of the disability employment services. They can trigger a review, but ultimately the final decision lies with the job capacity assessor, and I think that system is not working as well as it should.

**Senator SIEWERT:** Has there been an assessment of that process? Have you been involved in any assessment of the assessment process?

**Mr Baker:** An assessment of the assessment process?

**Senator BOYCE:** Perhaps an evaluation of the assessment process.

**Mr Baker:** An evaluation. I cannot recall one recently.

**CHAIR:** These issues have been struggled with for a long time. In terms of a recent one we will ask the department. Mr Baker, is there anything else you want to add? You have been working in this area a long time. You started out giving us the four key areas of concern; you have suggested some of the areas that could be useful in making it a more positive bill from your perspective. Is there anything we have missed?

**Mr Baker:** No, I do not think so. By way of a closing comment, I am frustrated with the piecemeal approach to the goal, which I think is a very important one, of increasing the employment rate of people with disability in Australia. I think it needs a comprehensive approach. I think the government indicated that it had a comprehensive approach in mind when it released the National Mental Health and Disability Employment

Strategy in late 2009. I think that was a high-level strategy but it was comprehensive and the headings within that strategy were the right headings. I think that is the framework under which we should be working rather than taking what is essentially a piecemeal approach.

**Senator BOYCE:** So you do not think this meets the strategy?

**Mr Baker:** Not sitting alone as it does; no, it does not.

**CHAIR:** Mr Baker can I ask a question about the advisory group? Was that group set up purely to look at the new tables or did it have a wider purview?

**Mr Baker:** No, it was purely set up to revise the disability and impairment tables, which had not been revised since the early 1990s.

**CHAIR:** So the sole role of the group now is looking at that. You actually had a suggestion that it could be widened because of the amount of expertise and knowledge those people have.

**Mr Baker:** A key part of the consideration of the group is the purpose of the impairment tables, which is integrally related to work capacity. A constant question is: if a person achieves 20 points, and if we look at what 20 points means in terms of these tables, does that really add up to a person's incapacity to work 15 hours a week without support at a full award wage? That is the framework within which the group has been working and providing advice on, and it has not had an opportunity to consider this quite different scenario.

**CHAIR:** Thank you very much.

**Proceedings suspended from 13:25 to 19:23**

**AHMER, Ms Kari, Branch Manager, Special Projects, Department of Families, Housing, Community Services and Indigenous Affairs**

**FOX, Ms Julie, Special Counsel, Legal, Department of Families, Housing, Community Services and Indigenous Affairs**

**HALBERT, Ms Cath, Acting Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs**

**LITCHFIELD, Mr John, Section Manager, Land Reform Branch, Department of Families, Housing, Community Services and Indigenous Affairs**

**CHAIR:** Good evening. We are reconvening our hearing into the Family Assistance and Other Legislation Amendment Bill. I want to put on record my appreciation to the members of the departments who have come to us tonight. I do appreciate this is extraordinary for you to be called for an evening session outside normal working hours—and also on the night of the State of Origin. I do apologise to you, but in your positions you would understand that the timing of this bill and the legislative sitting process means we need to look at the bill urgently. So I want to say thank you. We have members here from three departments, the Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Education, Employment and Workplace Relations and the Department of Human Services. We will ask questions and if we could have key people from the three departments at the table but we may need people at the table to change in response to certain questions. Hopefully we will divide questions into the issues in the different parts of the bill: families, disabilities and schedule 5. Senator Boyce, do you wish to start on families, disabilities or the schedule 5 issue around Aboriginal land?

**Senator BOYCE:** We might start with the Aboriginal land issue, schedule 5, and get rid of that issue perhaps.

**CHAIR:** I know you understand the process with giving evidence. You will only be asked questions about the implementation areas that you are aware of and not the motivations for policy in standard public sector process. Senators may not follow that, but we will pull them up if they go beyond that.

**Senator BOYCE:** The changes that are proposed here in exempting land trusts from the Public Works Committee Act have been described as minor and technical, I think, in the explanatory memorandum. There have been some concerns raised about whether they are in fact minor and technical. Could one of you explain exactly what the changes are proposed to do?

**Ms Halbert:** Senator, the change seeks to make clear that the Aboriginal land trusts as entities are not subject to the public works process. That is not to try and exempt any works undertaken by or for the Commonwealth on Aboriginal land, but merely to exempt these entities which were never envisaged as being subject to the act.

**Senator BOYCE:** But they have been for some time, have they not?

**Ms Halbert:** It only came to our attention late last year when we sort legal advice into one of the projects, the community stores project, which was a large project for the Aboriginals Benefits Account funding some community stores, upgrades and rebuilds. The department sought advice on this issue. As I said, it had never been contemplated before that these land trusts would be captured, and once we received that advice there was a question as to whether it was. Since then we have approached the Public Works Committee ourselves trying to seek clarification on that. There was still uncertainty or the committee felt that they would be captured. This amendment seeks, as I said, to give effect to what was always intended, as we understand it, that the land trusts not be captured.

**Senator BOYCE:** As I understand it, the land trusts themselves do not expend money, they do not manage the land. Could you explain who does and the corporate governance procedures around that?

**Mr Litchfield:** Under the Aboriginal Land Rights (Northern Territory) Act 1976 Commonwealth legislation, title to Aboriginal land under that act is vested in Aboriginal land trusts. The title is freehold, subject to certain statutory modifications conferred by the land rights act. Land trusts are bodies corporate with perpetual succession and they may acquire, hold and dispose of real and personal property. The essential purpose of an Aboriginal land trust is to hold the fee simple of Aboriginal land vested in it. Its functions are to hold that title and to exercise its powers as owner of the land for the benefit of traditional Aboriginal owners of the land. It is important to note that an Aboriginal land trust cannot perform any independent function; it can only act in accordance with directions given to it by the relevant land council, and a land council can only give a direction with the consent of Aboriginal traditional owners and having consulted with other Aboriginals affected by any particular decision.

**Senator BOYCE:** And that is contained in the act?

**Mr Litchfield:** That is the way the land trust is set up under the legislation. We commonly call it a tripartite arrangement between the traditional Aboriginal owners of the land, the land trust and the land council.

**Senator BOYCE:** Have the land trusts been consulted about these amendments?

**Ms Halbert:** Prior to getting the legal advice we had not consulted them because we had no conception that we would need to. We did not consult them until we had gone to the Public Works Committee because we wanted to clarify what the situation was, but we did notify them of this amendment being put into the legislation.

**Senator BOYCE:** So they have been notified?

**Ms Halbert:** Yes.

**Senator BOYCE:** Have they responded in any way?

**Senator FURNER:** I was just going to ask: did they support the amendment that you are describing now?

**Mr Litchfield:** Informally, they are comfortable with the amendment as it effectively promotes existing practice. It has been the practice for 30 years.

**Senator BOYCE:** And the land councils?

**Mr Litchfield:** Sorry; I was referring to the land councils. The land trusts themselves do not have an independent action as such, and we would only be effectively contacting them through the land council.

**Senator BOYCE:** Okay. Now, can you explain why this is happening through the Aboriginal land rights act rather than the Public Works Committee Act? Why is it being done that way?

**Ms Fox:** The amendment could have been put through under either the Public Works Committee Act or the Aboriginal Land Rights (Northern Territory) Act. Given that its scope used to apply only to Aboriginal land trusts, which exist only within the scope of that act, that was an appropriate place for it to be.

**Senator BOYCE:** Earlier, someone mentioned some sort of confusion, perhaps, or uncertainty at the Public Works Committee. What is the Public Works Committee's view of this amendment?

**Ms Ahmer:** We put a paper up to the Public Works Committee for consideration at their meeting of 12 May outlining the issues and indicating that we would be looking for a process—at that stage we had not worked out precisely how we would go forward, but we were looking for a process to clarify the issue that the Public Works Committee Act should not apply to the land trusts as entities. The committee at that stage noted the issue, noted that the advice effectively indicated that they were Commonwealth authorities for the purpose of the Public Works Committee Act and that we should act on that basis. It also noted that if there were to be any change in policy or legislation that that would be a matter for government.

**Senator BOYCE:** In terms of work that is funded by the Commonwealth undertaken on land trust land, what is the position regarding the Public Works Committee?

**Ms Halbert:** If work is undertaken by or for the Commonwealth, even on Aboriginal land trust land, it will be subject to scrutiny by the Public Works Committee.

**Senator BOYCE:** Will there be any difference at all in the scrutiny that could be achieved now compared to the scrutiny in the future?

**Ms Halbert:** Not if that is the reason it is captured. If it is by or for the Commonwealth, it will be scrutinised as for other works.

**Ms Ahmer:** The intention of the amendment is to maintain what has been happening in practice for the last 30 years, which is about looking at works, taking to the Public Works Committee those works that are by or for the

Commonwealth, but those that have previously been considered to be private works undertaken on land trust land would continue to be considered as private works.

**Senator BOYCE:** That would mean that government-funded work over \$15 million on land trust land may not be subject to the Public Works Committee.

**Ms Ahmer:** If it is Commonwealth-appropriated funding, that the benefit that flows from the work is by or for the Commonwealth under the Section 5AA of the Public Works Committee Act, there are a range of issues—

**Senator BOYCE:** But if it were funding of an NGO to undertake—

**Ms Ahmer:** At the moment, if we are funding an NGO to build a capital work which they are going to take effective control or ownership of and manage that and continue with that, that would be considered a private work at the moment; with the amendment it would continue to be considered a private work. If, however, the work that was being undertaken was effectively being done for or by the Commonwealth, it would be subject automatically to the Public Works Committee Act today and equally it would be subject to the Public Works Committee Act if this amendment goes through.

**Senator BOYCE:** Thank you. That is all for the questions I have got in that area.

**Senator SIEWERT:** I want to go on from where Senator Boyce left off. If the Commonwealth is explicitly funding any works on these lands they will still be subject to the—

**Ms Halbert:** I think Ms Ahmer tried to make the distinction that if the works are for or by the Commonwealth, as opposed to, for example, granting funds to an entity that is undertaking the works for private purposes, then the latter would not be captured and would not be captured today. The former would be and should be captured today as well.

**Senator SIEWERT:** You said this has been the practice for the last 30 years. Does that mean that for the last 30 years things have not been done according to the act?

**Ms Ahmer:** In 1981 there was an amendment going through to the Public Works Committee Act that introduced the concept of Commonwealth authorities. At that stage the concept of land trusts had been in existence for five years. At the time of the amendment going through, our understanding—and I guess the understanding of all of the lawyers that we have had involved—is that there has been no consideration of the fact that land trusts should be captured or be considered to be Commonwealth authorities for the purpose of the PWC. Over the last 30 years it has not come to the fore; it has not been an issue that we know of where there has been legal advice. It is not an issue that the right thing has not been done, but this is the first time that we had advice that said, on balance, that land trusts could be perceived to be Commonwealth authorities for the purpose of the PWC Act. Because it was on balance and it is a matter of 'It could be' we wanted to put that beyond doubt, because it actually starts to raise some issues and we wanted to clarify absolutely that that was not the case.

**Senator SIEWERT:** In that case, the work that has been funded through the NT—for example, any Commonwealth funded work or FaHCSIA funded work that has been carried out in the NT—say, through the intervention, has this process been applied to all that funding?

**Ms Ahmer:** If it is FaHCSIA funded work, it would be determined to be for the benefit of the Commonwealth and it would go through, subject to the thresholds that are set out in the Public Works Committee Act and also the Public Works Committee manual. It would go through to the Public Works Committee for consideration.

**Ms Halbert:** If, however, the funding is provided through a national partnership, which results in the Territory government, for example, contracting with private or other contractors, and the Commonwealth is not party to that, it is not subject to the Public Works Act.

**Senator SIEWERT:** Sorry, if the Commonwealth is in partnership—

**Ms Halbert:** If the Commonwealth pays the money through a national partnership to the Territory government, and the Territory government is the one contracting with a non-government or private entity and therefore the Commonwealth is not a party to it, then it is not captured. It would not be today and it will continue not to be.

**Senator SIEWERT:** Even though it is Commonwealth funding?

**Ms Halbert:** The funding emanates from the Commonwealth but none of the funding that is through national partnerships is subject to the Public Works Act.

**Senator SIEWERT:** Thank you.

**Senator FURNER:** Can you explain whether Aboriginal land trusts have ever been granted funding directly by the Commonwealth for the delivery of capital works projects?

**Mr Litchfield:** Aboriginal land trusts are prohibited from handling moneys under the act, so they cannot receive moneys or pay out moneys.

**Senator FURNER:** All right.

**Senator SIEWERT:** Have you had legal advice that confirms that the amendment to the schedule will exempt Aboriginal land trust authorities from PWC scrutiny?

**Ms Fox:** We have had advice from the Australian Government Solicitor to that effect. The advice is largely represented in the explanatory memorandum, also drafted by the Office of Parliamentary Counsel, who have asked and answered the question that it will not go further than just exempting the land trust vehicle.

**CHAIR:** Thank you very much.

**Senator BOYCE:** There continue to be concerns in some areas as to whether there would be unintended consequences of this. How will you know if there are unintended consequences and what will you do about them?

**Ms Ahmer:** As Julie has indicated, we have spoken with and sought advice from the Australian Government Solicitor and the Office of Parliamentary Counsel very specifically on the questions of whether or not there would be an extension and whether that would limit the works to which the Public Works Committee Act would apply, by comparison to today.

The amendment itself does not impact on the Public Works Committee Act. It says that the land trusts themselves are not authorities for the purpose of the Public Works Committee, but section 5AA, which outlines, and is used to determine, what is a public work, remains unchanged. If you fall today within the definitions of what is a public work under section 5AA you will fall within that definition if this amendment goes through. In a sense, the Public Works Committee Act and section 5AA of the Public Works Committee Act should preclude any unintended consequences.

That is particularly so for section 5AA(4), which was an amendment that was put through in 2006, if my memory serves me correctly. That amendment was put through basically to capture leased properties and public-private partnerships and to say that for something to be a public work the Commonwealth does not have to own the land and it does not have to own the work. There is a genuine sense of: is it by and for the Commonwealth? Ownership is not the key element anymore. So from that perspective the fact that land trust land and any capital works that are undertaken may vest to the land trust does not mean that that exempts the work that is being undertaken on that land. It will still be captured by virtue of section 5AA.

**CHAIR:** If there are no further questions on schedule 5, thank you to the officers for attending.



**CARROLL, Ms Liza, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs**

**LYE, Mr Michael, Group Manager, Families Group, Department of Families, Housing, Community Services and Indigenous Affairs**

**SALVAGE, Mr Robin, National Manager, Families and Child Care Program Branch, Department of Human Services**

**WHITECROSS, Mr Andrew, Branch Manager, Family Payments, Department of Families, Housing, Community Services and Indigenous Affairs**

[19:42]

**CHAIR:** We are now going to go through the bill schedule by schedule, which means that we will start with families. We will look at general issues in the families part of the bill and then move to schedule 1, schedule 2 and so on in that way.

**Senator BOYCE:** Why does FTB A have an income taper when lots of others—FTB B, the baby bonus and paid parental leave, for example—have a sudden death cut-off, for want of a better word?

**Mr Whitecross:** I think the usual reason for tapering the payments is because there is a relatively large amount of money involved. For a child under 12 the FTB A rate is about \$5,000, and for a child aged 13 to 15 it is about \$6,000. Withdrawing the money from a family would have an impact on their household income. It is withdrawn progressively so as to reduce work disincentives for people increasing—

**Senator BOYCE:** Could you say the same about the baby bonus and paid parental leave?

**Ms Carroll:** When this family payment system came into existence in 2000, the design of it was to try to maximise the benefits paid to those on the lowest incomes and then to, as Mr Whitecross was saying, minimize any kind of sudden death kind of drop off and therefore do some taper. Obviously, the way the system is designed is to try to, as I said, maximise the amounts paid to those on the kind of lowest incomes and then gradually taper off after that.

**Mr Whitecross:** Senator, in relation to FTB B, there is a taper on the second earner income test. FTB B is withdrawn once the second earner's income exceeds around \$4,500 at a rate of 20 cents in the dollar. There is a progressive withdrawal of FTB B in relation to the second earner income.

**Senator BOYCE:** The minister recently talked about analysis showing that in international terms our spending on family benefits was 1.76 per cent of GDP and therefore quite high against an international average of 1.17 per cent of GDP. Where will we be if the changes to the legislation are made?

**Mr Whitecross:** We have not done the calculations to enable me to advise you on what the impact of this would be in terms of a percentage of GDP. I do not know how significant it is in terms of the size of the percentage, but it is a reduction in expenditure so that may result in a reduction in the total expenditure as a percentage of GDP. But there are other positive factors which impact on expenditure on FTB, like the size of the population of children, which may also impact on the percentage.

**Senator BOYCE:** Did the department provide this data to the minister?

**Mr Whitecross:** The data that was provided to the minister on the OECD came from us. It was based on reports from the OECD.

**Senator BOYCE:** Would you be able to provide that to the committee? That report or piece of information?

**Mr Whitecross:** Yes. It is published by the OECD, so it is available.

**Senator BOYCE:** Will the family payment system come up for discussion in the delayed tax summit?

**CHAIR:** That is a question for the government, Senator. I do not think the officers can answer that one.

**Ms Carroll:** We would not be in a position to answer that, Senator. That is a decision for government and the Treasurer would announce that at the time of finalising what is in the tax summit.

**Senator BOYCE:** I do not have any more general questions, except the ones that will come up as we go along.

**CHAIR:** Have the officers had a chance to see the submissions that we received on schedule 1? Two were handed in this afternoon, but there were a couple of others on the system. The National Welfare Rights Network and the Welfare Rights Centre provided submissions, and they are on the system.

**Mr Whitecross:** I have not seen those submissions. I have seen one from the Council of Social Service.

**Senator SIEWERT:** I asked during estimates about the collective impacts of some of these amendments. I wanted to look at whether you had got any further in that analysis of the cumulative impacts on, for example, single parents. I know we are going to talk about the supplement, so I do not want to talk about that in detail at the moment. We will get to it.

**Ms Carroll:** We have been working with DEEWR on that piece of work about the cumulative impacts. But the particular members of DEEWR are not here tonight, because the legislation does not apply around parenting payment. It is not the same piece of legislation. We have been working on it. We can give you our components of how they impact, and we can get into that later. But, as I said, we have been working with them on the combined impacts and so some of the impacts of their measures will come up in their legislative components.

**Senator SIEWERT:** I will not revisit my concern about how that work has not been done; you already know that. But the other bit that came up this morning, which probably belongs in the general area—and we will presumably go into more detail under the DSP—does cross that as well, and that is the issue about taper rates. I was massively confused in estimates, and I am still massively confused, about the different taper rates that apply. I thought I had it right and then this morning, in the submission from ACOSS, they made a point that the taper rates were different on Newstart for sole parents and, for example, for people with a partial disability. Is that correct or not? I thought I had it sussed. I thought we looked it up and said no, it is not.

**Mr Lye:** I think that is probably correct, Senator, but we are not the authority on that.

**Mr Whitecross:** Currently, the taper rates are the same.

**Senator SIEWERT:** So the changes that come in now will apply? The new taper rates announced are solely about sole parents when they go onto Newstart?

**Mr Whitecross:** Primary carers—sole parents who are the primary carers. As Mr Lye said, it is not actually our measure, but my understanding of the policy is that it applies to sole parents who are the primary carer.

**Senator SIEWERT:** Yes, I appreciate that it is another department, but again, it comes back to this cumulative impact. The cumulative impact on somebody who now will not be on DSP—and we will get to that discussion shortly—if they are on Newstart and they have a partial capacity to work, they are stuck on the old taper rates. Is that correct?

**Mr Whitecross:** My understanding is that the measure that you are referring to only applies to primary carers who are single parents. So that could include someone who also had a partial capacity, but the measure as I understand it only applies to primary carers.

**Senator SIEWERT:** I do appreciate that I am crossing into schedule 3, but it is relevant to cumulative impact. I want to know what impact this has on somebody when these different measures do or do not kick in. Hopefully the DEEWR people who will be here when we discuss schedule 3 can tell me, and we will get some advice by the time we get to schedule 3, about the taper rate issue. Because that is another impact. People who potentially would have been on DSP are now going to be on Newstart with a partial capacity to work, and they are going to be on the old taper rates by the sound of it. And that comes back into the general question: what is the total impact?

**Mr Lye:** We can, if you would like to quantify the impact—

**Senator SIEWERT:** I want it quantified—the cumulative impact of all of the different government measures they are introducing through these budget measures. I want to know the ultimate impact on people's pay, the bottom line money.

**CHAIR:** The issue is what the individual impact is. So for individuals who are subject to the different payment types what will be the cumulative impact of the various changes to their entitlement?

**Senator SIEWERT:** Yes, it is the same point that I made in estimates. I was just hoping that work would be available before we were asked to vote on this bill, for a start, and secondly, I have only just realised, despite us

looking, that there are so many changes in taper rates now. That is another impact that I had not asked for before because I did not realise that that was not carrying through to those on Newstart.

**CHAIR:** I think some of the issue will be picked up by the disabilities people, because you are looking particularly at that area. But then in terms of the different taper rates we would need to have some clarification about which areas and which taper rates apply. Is it possible to get what the taper rates are for this payment? Then we would be able to trace an individual within those different areas. Is that possible?

**Ms Carroll:** We are just trying to clarify. So essentially you are asking what would happen to an individual who is a sole parent? So if we just take an example of a sole parent who is currently on DSP—

**Senator SIEWERT:** No, sorry—

**Ms Carroll:** I just want to make sure I understand the example that we are trying to work through.

**Senator SIEWERT:** I asked a general question in estimates around people who are getting family supplement. They are frozen. They are the cohort of people, for example, who are affected by the other budget measure, which is not in this bill—parenting payment single—who are going from 16 to 12. It is a cohort, as I understand it, of about 30,000. I want to know: what is the combined impact for that group?

My next general question relates also to cumulative impact. It relates to the measures around DSP and the new approach, which is that you stay on Newstart until you prove otherwise. They are still expected to find work with a partial capacity to work. I have a question about Newstart. Has anyone looked at the difference between someone on DSP with a partial capacity to work, and the new taper rates, and someone on Newstart with partial capacity to work, with the old taper rates? You do not get access to the new taper rates for either DSP or the single parent's new taper rate. Not for one minute am I having a go at the new taper rate for single parents. But there is now a cohort of people with partial capacity to work—as I understand it—who are on the old taper rate; in other words, they are subject to the same disincentives that the people on DSP used to be on. If that is a wrong analysis, I would love to know.

**Ms Carroll:** I think our disability colleagues will be able to help with that scenario. Now that you have expressed it, they are trying to work it through.

**Senator SIEWERT:** It is a general question to which I would like an answer. If it does not get resolved, can you take it on notice? It is on schedule 3.

**Senator BOYCE:** Because of the timing on this, I have not had a chance to have a proper look at many of the submissions. Both the National Welfare Rights Network and the Welfare Rights Centre have said that there could be families that qualify for FTB but not for youth allowance and that they would not be able to access youth allowance because of the family means test. I am somewhat out of my depth on this. Can you explain this?

**Mr Whitecross:** Are you talking about schedule 1?

**Senator BOYCE:** Yes.

**Mr Whitecross:** The measure deals with some families who are receiving FTB in respect of a dependent student who is aged between 22 and 24. As a result of the measure, once the student has finished the current course of study they would no longer be eligible for FTB. The alternative payment would be to go to youth allowance as an independent, because the age of independence will have been lowered to 22. They should be able to qualify for youth allowance provided they meet the qualifications for youth allowance as an independent person not as a—

**Senator BOYCE:** Can they do that irrespective of where they live?

**Mr Whitecross:** Yes.

**Senator BOYCE:** You can live at home?

**Mr Whitecross:** Yes, that is right.

**Senator BOYCE:** With your parents?

**Mr Whitecross:** You can live at home as an independent and you are not subject to a parental income testing if you are classified as an independent person.

**Ms Carroll:** The rate is different for people if they live at home or out of home. Once you are deemed independent you—

**Senator BOYCE:** Do the eligibility criteria match? Is it possible that you could be eligible for FTB but not eligible for youth allowance on a means-tested basis?

**Mr Whitecross:** The difference is that, to receive FTB for a child aged 22 to 24, the child's income has to be less than the child income limit, which is about \$13,000. That is a sudden-death cut-off. For youth allowance, there is a free area and then a tapered means test so you may be able to qualify for youth allowance but not for FTB because of income, or you may qualify for a broken rate of youth allowance but qualify for the maximum rate of FTB. Other than that, because it is only a personal income test that applies in this situation, not a parental income test, there is no real group that is precluded.

**CHAIR:** It is unfortunate that you have not had a chance to have a look at the Welfare Rights Centre's submission that is in front of you, but it seems to me the question relates to residence in terms of residence visas. The concern raised by the Welfare Rights Centre—and you know that they look at the legislation in a particularly detailed way—is that, in their belief, the change in schedule 1 would actively work against people who are here on different forms of visas, particularly New Zealanders.

**Mr Whitecross:** That is correct. The family tax benefit is paid in respect of children regardless of their length of residence, whereas youth allowance is an income support payment, and income support payments are subject to a residency rule. The residency rule for youth allowance is two years residence.

**CHAIR:** Yes, and that is a point they make.

**Mr Whitecross:** In respect of that, that would be correct, because there is not a residency limit in terms of FTB.

**Senator BOYCE:** Will there be any change to people receiving, for example, the double orphan pension as a flow-on of these changes in schedule 1?

**Mr Whitecross:** Sorry, I missed the beginning of your question.

**Senator BOYCE:** Will there be any changes to the double orphan pension in regard to how it flows on? Will there be flow-on effects from changing schedule 1 to people on double orphan pensions?

**Mr Whitecross:** I can double-check and advise you, but I do not believe so.

**Senator BOYCE:** That would be good; please do, because, again, the National Welfare Rights Network believes that some people may well be left without payments—people responsible for adult orphans, for example—because of this.

**CHAIR:** Senator Siewert, do you want to start with schedule 2? I know you had questions this morning.

**Senator SIEWERT:** Yes, I had specific questions around the freeze of indexation and the supplements. My question is: are you able to do some costings on putting a threshold for freezing indexation? For example, could you not freeze or apply the measure below a certain income threshold or for those on income support?

**Ms Carroll:** What you are suggesting is an alternative policy position, that you only apply the freezing of the indexation to a certain cohort. From a policy perspective it would be possible to determine how to do that. The key would be, from an implementation perspective, looking at how easy it would be to do. You would actually be redesigning the system, I would imagine. I will hand over to my colleague from human services in a moment but, effectively, you can design the system in different ways; it is really about how it fits with the current design of the system for implementation.

**Mr Salvage:** Without going into detail now, there would obviously be a level of complexity with trying to make that differentiation, because the limits would be applied currently across all. We would have to consider that and then advise the department if that was the policy angle taken. My initial reaction would be that that would be pretty tricky.

**Senator SIEWERT:** You already have a book of 32 pages of different types of payments. This might push it over to page 33. I know that is not an issue for this committee. There are lots of people suggesting that we simplify the process, and I am one of them. We are talking in the context of an already complex system of payments, are we not?

**Ms Carroll:** As we have already said, the payment system has different taper rates, income limits and dependencies, like the number of children and all of those things. Clearly the payment has lots of moving parts across the whole system. The key is when you start to apply things to particular groups that might be differential and how easy it is, depending on where you pick to do a change to how things will be applied. The issue about pausing the indexation, for example, is that, if you were trying to just do it for one or two years or something, the costs would be quite significant, more so than if you were trying to make the change on a permanent basis. For example, if you wanted to change the supplements for one group to another group for evermore, it might be different to saying, 'We want this to come in, happen for a couple of years and then stop happening'—if that makes sense.

**Senator SIEWERT:** What I am talking about is applying the same measure but not to those on a low income, below a certain income or those on income support. During last estimates you gave us some figures around the number of single parents or people on FTB B supplement. There are nearly 600,000 people on that payment, isn't there?

**Mr Whitecross:** Do you mean single parents?

**Senator SIEWERT:** Single parents, yes. I did have my estimates books here and then left them in my office this afternoon. There were around 590,000, or something like that.

**Mr Whitecross:** That sounds right.

**Senator SIEWERT:** That is single parents on FTB B, isn't it?

**Mr Whitecross:** That is right.

**Senator SIEWERT:** The FTB B supplement.

**Mr Whitecross:** Yes.

**Senator SIEWERT:** They are all getting B. How easy is it to break down those below an income of, say, \$30,000 on both A and B?

**Mr Whitecross:** We have estimates of incomes that customers have to provide. It is possible to distinguish customers by income, but I have not got that particular breakdown with me.

**Senator SIEWERT:** Bearing in mind that we are supposed to be debating this very shortly, can you take on notice the breakdowns in the income threshold groups and the numbers in those threshold groups?

**Ms Carroll:** So if we went with the maximum rate of FTB B—

**Senator SIEWERT:** Yes.

**Ms Carroll:** FTB A rather—a part rate, base rate. Are they the groups that you are suggesting?

**Senator SIEWERT:** Yes. Could we do A and B—the numbers involved in each of those income thresholds?

**Mr Whitecross:** The maximum rate or reduced rate for A and the maximum rate or reduced rate for B?

**Senator SIEWERT:** Yes, please, and the numbers.

**Mr Whitecross:** By single or partnered?

**Senator SIEWERT:** Yes, and if they are on income support. Some people are on a very low income and you do not differentiate if it is income support. So, if you could tell us how many are on income support, that would be appreciated, too.

**Mr Whitecross:** Yes.

**Senator SIEWERT:** Thank you.

**Mr Salvage:** The only other observation I would make is that, in the context of work that Centrelink would have to do, as things currently stand we actually do not need to do anything, because these measures mean that things do not change in terms of the income limits, which have changed in the past. What you are suggesting would require a significant amount of work to be done—I will just make that point, and the fact that at the moment we operate in a three- to six-month window ahead of all work that has to be done, so there are implementation issues associated with that.

**Senator SIEWERT:** Point taken.

**Senator BOYCE:** These might be questions you need to take on notice, as well. We have been told by the government that about 9,000 families will be affected in the first year and nearly 20,000 families will be affected in the second year of the freeze on indexation—or the \$150,000 limit. Have you got figures for every proposed year of the freeze on indexation?

**Mr Whitecross:** So you are talking about the freeze on the FTB Part B primary earner limit? For the FTB Part B \$150,000 primary earner limit, in 2012-13 there will be 9,000 people cancelled?

**Senator BOYCE:** Families?

**Mr Whitecross:** 9,000.

**Senator BOYCE:** Families, though?

**Mr Whitecross:** Families, yes. In the second year 2012-13, it will be about 19,800. And there will not be any further families cancelled in 2014-15, because indexation resumes on 1 July 2014.

**Senator BOYCE:** They are the people who get nothing, but how many families currently receive FTB Part B?

**Mr Whitecross:** In 2008-09, which is the latest year for which we have a complete picture, it is about 1.6 million.

**Senator BOYCE:** You do not have a 2009-10 figure?

**Mr Whitecross:** Because you are able to claim up to two years after the end of the entitlement year we have not got the complete figures for the 2009-10 year.

**Senator BOYCE:** But you must have used a baseline figure to make the assumptions about the savings that are going to be made?

**Mr Whitecross:** Yes, we did, but in terms of an estimate of the total number of people receiving FTB Part B, the most recent complete figure we have got is the 1.6 million.

**Senator BOYCE:** What percentage of families was that in that year?

**Mr Whitecross:** The total number of families in Australia in that year?

**Senator BOYCE:** Yes.

**Mr Whitecross:** I can get that but I do not have that here.

**Ms Carroll:** We just do not have it with us.

**Senator BOYCE:** If you could give me that on notice. I am just trying to get a sense of what this is going to be. We had evidence briefly today from ACOSS and others that losing the FTB Part B supplement, or having it diminished, will be an issue for all families. It is currently worth \$354.05 per year per family, is that right?

**Mr Lye:** Yes.

**Senator SIEWERT:** Is that per child?

**Mr Lye:** No, that is per family. FTB Part B is paid per family, so that is per family.

**Senator SIEWERT:** So FTB Part A is per child?

**Mr Lye:** FTB Part A is per child.

**Senator BOYCE:** FTB Part A is per child, yes. So how much will people lose in the first year?

**Mr Lye:** There will not be a loss of income.

**Senator BOYCE:** Sorry, how much will they not gain in the first year? They will continue to be paid \$354.05 despite the fact that in other circumstances they would have been paid more.

**Mr Lye:** Correct.

**Senator BOYCE:** How much would they have been paid if the freeze on the indexation did not happen?

**Mr Whitecross:** An amount of \$11.

**Senator BOYCE:** What about for the year after that?

**Mr Whitecross:** Twenty-two dollars.

**Senator SIEWERT:** What about for A?

**Mr Whitecross:** For A, the amount foregone by not indexing the payment is \$18.25 in 2011-12.

**Senator SIEWERT:** Per child?

**Mr Whitecross:** Per child.

**Senator SIEWERT:** So \$18.25 per child in the first year. What about the second year?

**Mr Whitecross:** In the second year it is \$43.40.

**Senator BOYCE:** Was that \$43.40 per child?

**Mr Whitecross:** Yes. That is per year.

**Senator BOYCE:** So you are looking at about \$100 for a two-child family—\$100 less in the second year? And that will affect—

**Mr Whitecross:** That is about right, Senator.

**Senator BOYCE:** And family tax benefit B affects well over 1.6 million families. Is that right?

**Mr Whitecross:** Around 1.6 million families, yes.

**Senator BOYCE:** One presumes, if that was the number in 2008-09, we are a bit ahead in 2010-11.

**Mr Lye:** Not necessarily, Senator.

**Senator BOYCE:** Not necessarily?

**Mr Whitecross:** It depends on the distribution of families in terms of their family incomes and how many of them have second earner with a low enough income to qualify for FTB B. The population will not necessarily grow.

**Senator BOYCE:** My only other question regards the fact that the supplements on the FTB B were supposed to balance out over payments and the like. That has dropped from 32 per cent in 2002-03 to eight per cent in 2007-08. That is what the minister said in her second reading speech. Why has that occurred?

**Mr Whitecross:** There is a range of measures that successive governments have put in place to try and assist families to avoid debt. For example, families under More Choice for Families arrangements, families can elect to defer receipt of part of their payment, so, rather than receiving it all as fortnightly instalments, they can receive some of it at the end of the year. Families also have the option of claiming the whole amount at the end of the year. They are also able to work with Centrelink to negotiate an adjustment to their fortnightly rate where they have had a change of circumstances during the year to ensure that the overpayment is recovered during the year so that they do not have an overpayment at the end of the year at reconciliation. There are also arrangements where they can meet their overpayment out of a tax return or some other monies at reconciliation so that they do not end up with a debt to the Commonwealth as a result of reconciliation.

**Senator BOYCE:** Does some of that mean that 10 families are doing it that way and 10,000 are doing it by other measures? Could you give some sense of the priority or the efficacy of what you are talking about?

**Mr Whitecross:** Some of the changes are more recent, so the impact of those is harder to assess. But there is a significant number of families electing to use More Choice for Families options to defer some or all of their payments.

**Senator BOYCE:** So they get a lump sum payment once a year?

**Mr Whitecross:** Yes. About 12 per cent of families elect to defer all of their payment to the end of the year. Another 10 to 12 per cent claim only lump sums at the end of the year and another 12 per cent defer part of their payment but not all of their payment.

**Senator BOYCE:** So what have we got? Close to 50 per cent somehow bundling up?

**Mr Whitecross:** About 24 per cent are deferring payments under More Choice for Families and then there is another group of people who claim only as a lump sum at the end of the year.

**Senator BOYCE:** So there is 12 per cent claiming it all in one go? Is that right?

**Mr Whitecross:** I am a little bit unsure about that figure so I might need to confirm it for you. But there is 12 per cent who defer all of the payment until the end of the year. Another 12 per cent defer part of the payment until the end of the year and there is another group who only claim lump sum payments after they have lodged their tax returns.

**Senator BOYCE:** So are you expecting that this will decrease even more, that the overpayment situation will basically disappear?

**Mr Whitecross:** I do not think it would be realistic to expect the overpayments to disappear.

**Senator BOYCE:** Sorry, I mean do you expect it to decrease further?

**Mr Whitecross:** I think for some of the measures that have been put in in recent years we are yet to see how they mature and it is likely that there will be some further impact on the debt level.

**Senator BOYCE:** The supplement was initially put in place to try to smooth out that overpayments issue.

**Mr Whitecross:** Yes, Senator.

**Senator BOYCE:** Is that the role it is playing now for the vast majority of people who receive it?

**Mr Lye:** It is probably playing less of a role over time as that debt figure is going down.

**Senator BOYCE:** Yes, but people are still used to receiving \$354 per year with the B supplement, for example. Is that correct?

**Mr Whitecross:** It is part of the end-of-year reconciliation process that there is this additional amount added into the calculation at that point, that is right.

**Senator BOYCE:** We had evidence from ACOSS today that a lot of their clients use this money to pay off bills and make major purchases, in the way that the \$1,000 cash supplement was used by pensioners at some stage. Are you aware of how people go about using the supplement? Have you done research into that at all?

**Mr Whitecross:** I am not aware of any research specifically looking at how people use the supplement money.

**Senator BOYCE:** Does that imply that there is other research around the Family Tax Benefit and how people use it, or not?

**Mr Whitecross:** I am talking in relation to the supplements; I am not aware of any research in relation to the supplements. I do not know that there is no other research on how families spend their money, but I am not aware of any research specifically on how they spend their supplements.

**Senator BOYCE:** So you have no way of knowing whether what ACOSS is saying in that area is correct?

**Mr Whitecross:** I think it would be reasonable to expect that families would adopt a variety of strategies as to how they incorporated that money into their budget. That is one possible way.

**Senator BOYCE:** That would be reasonable, but you do not know, from any research or any information that the department has—and perhaps I should be asking human services about this, too—what happens with supplements?

**Mr Salvage:** Mr Whitecross says, I am not aware of any specific research into how the supplement is used by individual families.

**Senator BOYCE:** If there are people who experience financial hardship because of the freeze, what have the departments got in place to assist?

**Mr Whitecross:** Senator, I do not think we are anticipating that the scale of the change is one which would cause families to be in financial hardship.

**Ms Carroll:** The other thing, as Mr Whitecross outlined, is that there are a range of ways in which people already use flexibility in the system. And there has been another component of the family payment system, the flexible advances, which also provides people with additional flexibility about how to take their family payments. I guess what we are anticipating is that people are already used to speaking with Centrelink about how best they might arrange the payments to make sure that they minimise any debt at the end of the financial year and get the payments in the best way possible for them. We would anticipate that that would continue.

**Senator BOYCE:** That would also be predicated by people on the fact that this amount is going to rise partly in line with cost of living increases as well, and that is going to stop happening. You have got an inelastic amount now rather than the slightly more elastic amount you had.

**Ms Carroll:** The inelastic amount is only on the supplement. It is not, for example, on the main payment component; it is on the supplement.

**Senator BOYCE:** We got to roughly \$100 a year for a two-child family, which, for a number of families, would be a significant amount of money. I think those are all my questions in that area.

**Senator SIEWERT:** I have one more around the supplement issue. The ACOSS submission—which I know is the one that you have seen—makes the suggestion that what might be an alternative, more equitable approach is to reduce the maximum rate of FTB A supplement for families on higher incomes. In other words, you put a threshold on that, in the same way that you have a threshold on part A. Has that approach ever been considered?

**Ms Carroll:** That is a difficult question to answer.

**Mr Lye:** There already is, but probably not in the same way as some other thresholds work. Families who are at the top end of Family Tax Benefit A do only receive a proportionate supplement. Mr Whitecross might be able to be more exact than I am.

**Mr Whitecross:** That is right. It is tapered at the top of A. It is added to your base rate and tapered down in one lump sum, so there is already a tapering that applies at that point.

**Senator SIEWERT:** So what is the minimum amount that you get at that—

**Mr Whitecross:** The supplement, as I said, is added onto the base rate and then, as your income exceeds the high-income free area, it reduces at 30c in the dollar. I think the minimum amount of FTB you can be paid is a dollar, but—

**Mr Salvage:** That is my recollection. It gets down to that low.

**Senator SIEWERT:** What you are saying is that it is already tapered?

**Mr Whitecross:** It is already tapered. It is part of the FTB base rate—yes.

**Senator SIEWERT:** Sorry, I am being a bit slow. It is actually factored into the base rate that you are paid through the normal FTB rate, which is why it then balances out with having the same supplement for everybody. Is that right? I have got the process right?



**Mr Whitecross:** Yes. It is the same supplement for everybody. It is added to the max rate if you are a max rate customer and the base rate if you are a base rate customer.

**Senator SIEWERT:** Thank you. Sorry, I am a bit slow on these taper rate things. How many people are under certain income thresholds in Family Tax Benefit A? But you are already taking that on notice.

**Mr Whitecross:** What I understand I have taken on notice is the number of people on A, and also the number of people on B, who are on income support or not on income support, on the max rate or on less than the max rate, and single or partnered.

**Senator SIEWERT:** Yes. Thank you.

**CHAIR:** As there are no further questions in the families area, thank you very much.

**BEATH, Ms Vicki, General Manager, Disability, Carers and Older Australians Branch, Human Services Portfolio (Medicare Australia)**

**BUFFINTON, Ms Fiona, Group Manager, Specialist Employment Services Group, Department of Education, Employment and Workplace Relations**

**HARTLAND, Mr Nick, Group Manager, Disability and Carers Group, Department of Families, Housing, Community Services and Indigenous Affairs**

**HATCH, Mr Andrew, Section Manager, Disability and Carers Payment Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs**

**PIGRIM, Mr Derek, Branch Manager, Specialist Employment Services Group, Department of Education, Employment and Workplace Relations**

**ROSE, Ms Sharon, Branch Manager, Disability and Carers Payment Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs**

[20:29]

**CHAIR:** Welcome. Would you like to make opening statements?

**Mr Hartland:** We have seen various submission to the committee, although I have not seen all of them.

**CHAIR:** We have seen them, yes.

**Mr Hartland:** I would just like to quickly go through a couple of matters to provide some clarity to the committee.

**CHAIR:** Mr Hartland, when you are going through them, if senators have a question on that same area, I think it is best they interrupt you when you are discussing that issue. So I will watch it closely.

**Mr Hartland:** It is very hard to senators asking questions!

**CHAIR:** It is my life's work, Mr Hartland. We will just get it issue by issue then.

**Mr Hartland:** Some submissions suggest that the measure is designed to delay access to DSP for those who are eligible. The measure is not about that. The measure is about eligibility for DSP. What it means is that people will have to provide evidence that they have investigated alternative employment options or sought assistance from an employment service before they are granted DSP. So, at that point they are not eligible for DSP. Under this measure people who do not have this evidence will have their DSP claim rejected. That does not involve deferring a DSP claim or suspending a claim process. It is a rejection of a claim. If their claim for DSP is rejected, it is likely that they will be granted Newstart or another income support payment. They will have the participation requirements that go with that payment, if any. So this measure does not introduce new participation requirements. People get the participation requirements that exist for the payment they are eligible for.

People who are granted Newstart allowance will be referred to an appropriate employment service to assist in building their skills and capacity. While these programs are generally for 18 months duration, if it becomes clear that the person will be unable to work more than 15 hours a week in the next two years due to, for example, a previously undiagnosed medical condition the person will be able to lodge a fresh claim.

Information about their participation in the employment service will be used to assist in assessing any subsequent claim. Currently, some 45 per cent of DSP new claim applicants apply for the payment without having

previously participated in any employment or rehabilitation service. The primary goal is to get people in contact with rehabilitation services across a range of our measures. To qualify for DSP, a person must have a continuing inability to work, or to be reskilled for work, for more than 15 hours per week, within the next two years. The basis for undertaking this change to eligibility is that is hard to determine, for these applicants, whether they meet that criteria, if they do not have evidence that they have actually been through a process to get reskilled for work. The ACOSS submission suggests that under existing legislation DSP applicants must demonstrate that it is unlikely that they could undertake paid employment within the next two years. The point of this measure, though, is that it is hard to demonstrate this unless a person has actually participated in a program of assistance.

**Senator SIEWERT:** You said 45 per cent of people who apply for DSP have not demonstrated that they cannot find work or cannot participate, I think it was. Could you repeat that.

**Mr Hartland:** They have not previously participated in an employment or rehabilitation service. So the evidence we have about whether or not they can be assisted to work is not clear.

**Senator BOYCE:** So what have they been doing?

**Mr Hartland:** They might have been working. A lot of DSP claimants lose a job and come onto DSP.

**Senator SIEWERT:** Could you tell us the percentage of people who have come straight from work onto DSP and the percentage of people who have been on Newstart and then applied for DSP?

**Ms Rose:** I have got some of that, anyway. From March 2010-11, 40.2 per cent of people coming onto DSP were from Newstart.

**Senator SIEWERT:** So they presumably have then been through the participation requirements?

**Ms Rose:** Yes.

**Senator SIEWERT:** They have applied for and successfully gone onto DSP?

**Ms Rose:** Yes.

**Senator SIEWERT:** So those have applied and successfully gone on to DSP?

**Ms Rose:** Yes.

**Senator SIEWERT:** Okay; thank you.

**Mr Hartland:** So this measure will not affect those customers. If you have already been through program assistance because you have been on Newstart, then you will not have to go through it again.

**Senator SIEWERT:** Hold that thought. I want to go into that, because it pertains, then, to who goes on, how they get assessed and that sort of process. How many come out of employment and go straight to DSP? How many have, in fact, been supported by a family member or not had any form of support when they go on to DSP?

**Ms Rose:** We do not actually record those coming from employment, but 44 per cent have not come from any other income support payment.

**Senator SIEWERT:** Okay—not from any other income support payment.

**Ms Rose:** Yes.

**Senator BOYCE:** Does that 44 per cent include the people who have gone from a child disability allowance to a DSP?

**Senator SIEWERT:** That is another form of income support.

**Mr Hatch:** They do not receive it in their own right, so that would include—

**Senator BOYCE:** So that 44 per cent would include people who have come from a child disability allowance to DSP because of their age?

**Senator SIEWERT:** They have qualified.

**Mr Hatch:** Yes.

**Senator BOYCE:** Do we have any idea of what percentage of that group those people are?

**Ms Rose:** Not with us. We can see if we can get that.

**Senator BOYCE:** It is a bit hard to know what that 44 per cent means, given that it includes that group.

**Senator SIEWERT:** Could you take that on notice? Are you not able to provide us with information as to whether these people have come out of employment and immediately applied for DSP or if in fact they have had no support before applying for DSP?

**Mr Hatch:** No. We do not actually record that on the system. We have done surveys of new people claiming DSP before and got proportions of those that have come from employment.

**Senator SIEWERT:** So what is the proportion through that process?

**Mr Hatch:** I would take that on notice, because it would be off the top of my head.

**Senator SIEWERT:** Okay. There is a fairly strong claim there that 45 per cent have not applied for rehab before.

**Mr Hatch:** We are pretty sure they have not been through a service, because we also get records of who has been through employment services as well.

**Senator SIEWERT:** I really want to get these—we have got 42.4 per cent who come from Newstart—

**Ms Rose:** It is 40.2 per cent.

**Senator SIEWERT:** I am sorry. I do have it written down properly—40.2 per cent on Newstart. Then we have 44 per cent who have not come from income support, but we also have a figure of 45 per cent who have not been through an employment rehab service. How do we know that?

**Mr Hatch:** Because they are not on an income support payment.

**Senator BOYCE:** Are that 44 and 45 per cent the same figure?

**Mr Hatch:** That is right; it is the same thing.

**Ms Rose:** Yes, 45 per cent is an approximation.

**Senator SIEWERT:** Okay. And what are the other 12 per cent?

**Ms Rose:** Parenting payment is 6.6 per cent; carer payment is 2.6 per cent; sickness allowance is 1.2 per cent; youth allowance is 2.7 per cent; and a category of 'Other' is 2.7 per cent.

**Senator SIEWERT:** Okay. I will let you keep going now and never interrupt again.

**Mr Hartland:** I had only one other point that I wanted to briefly mention. It is not clear to us from some of the submissions that we have seen whether there is a misunderstanding that all new DSP applicants will be required to achieve 20 points under one impairment table in order to qualify for DSP. That is not the case. The clause about 20 points under one table is a way of ensuring that people with a very severe disability are not referred to services where it is unlikely that there will be any benefit. In designing this measure, we wanted to avoid people who have a very severe disability having to prove their work capacity in this manner. So, if you are a DSP applicant, to reverse this point—

**Senator SIEWERT:** I get it.

**Mr Hartland:** You get it, okay. To tidy off the other side of this, if you are a DSP applicant and you have 20 points combined from a number of tables and you have evidence that you cannot be assisted by program assistance, you will still be eligible for DSP.

**Senator SIEWERT:** Do not worry, they get it.

**CHAIR:** Mr Hartland, what constitutes evidence?

**Ms Rose:** We have some examples of what could constitute evidence. Evidence that the job capacity assessor may consider could include, but not be limited to, material from the individual themselves, material from a Commonwealth funded employment service provider such as Job Services Australia, Disability Employment Services, Australian Disability Enterprises.

**Senator SIEWERT:** This is if they have actually been through them and have been using their processes.

**Ms Rose:** Yes.

**Senator BOYCE:** But you have to go and see a job capacity assessor with your 20 points to—

**Senator SIEWERT:** No, this is about whether you have actually tried employment and training and things.

**Senator BOYCE:** Sorry, I thought we were talking about evidence.

**Senator SIEWERT:** No, we are talking about evidence. You have to have your points or not—

**Senator BOYCE:** Evidence that you cannot work.

**CHAIR:** I think this is after rollback. This is for people who have got 20 points across a number of the tools, isn't it? This is not someone who has been predetermined as having severe disabilities. They will not have to go through the system.

**Ms Rose:** Yes.

**CHAIR:** These are the people that have got an amalgam of 20 points to prove that they have significant disability and, in the statement read out, they would be exempt if they could provide evidence that this process would not be effective for them. What I am trying to find out is what constitutes evidence and you have said, Ms Rose, 'material from'. That does not help me a lot, because 'material' and 'evidence' can be transposed—they say the same thing. What constitutes evidence to say that you are not able to take part in this process? That is a core aspect from all the submissions.

**Ms Rose:** An employment pathway plan, a progress exit or a program closure report from a service.

**Senator BOYCE:** So you have to prove you have failed, basically?

**Ms Rose:** No, that you have already participated. You have been through a service and had the opportunity to have your capacity built.

**Senator BOYCE:** But I thought we were talking about evidence that people who had 20 points across several tables needed as well as those 20 points to tell you why they do not have to participate.

**Senator SIEWERT:** No, they have to demonstrate that they have participated. That is the very point the groups are making: just having the 20 points across the tables does not get you there.

**Mr Hartland:** There have always been a couple of strings to the DSP qualification criteria. One of them is that you have to have at least 20 points on the impairment tables and you also have to have evidence that you have an impairment that prevents you from working or being reskilled for more than 15 hours a week at or above the relevant minimum wage within the next two years. In effect, this measure adds an additional step by saying, 'What are we going to take as having demonstrated that you have a continuing incapacity to work?' It leaves the impairment tables in place, it leaves the 15 hours in place and we say, 'What do you have to show to demonstrate that you have a continuing incapacity to work?' We have found that a lot of people who might have been assisted by employment programs have not actually tried to see whether that employment program will assist them.

**Senator SIEWERT:** Can you explain the 15 and the eight hours, please? I thought it was now eight hours.

**Mr Hartland:** The criterion for DSP is 15 hours. Neither this measure nor another measure in the budget around participation requirements for people under 35 changes the 15-hour rule.

**Senator SIEWERT:** So there is no eight hours?

**Mr Hartland:** Not in qualification. There are some ways in which HR becomes relevant in terms of what we ask you to do but it is not for qualification.

**Senator SIEWERT:** Tell me about the eight hours.

**Senator BOYCE:** How is it relevant?

**Mr Hartland:** We are very happy to discuss this, but it is not relevant to this measure. Sorry, we are having to collect our thoughts, because it is a related but different measure and we are trying to warm our minds up to it.

**Ms Rose:** The relevance is that under the current rules you have to have a capacity of at least eight hours to be able to participate in the DEEWL employment services. For the disability employment services, that is part of the current rules, so we have to find a way of working out who has eight hours in terms of that. That links up with the 20 points on one table and, in one sense, goes to severe impairment. Roughly speaking that would be, say, zero to seven hours, and eight to 14 hours has a lesser level of impairment.

**Senator SIEWERT:** If we could go to a definitional thing, in terms of the legislation and what is being amended. I am trying to get my head around the 'program of support' definition and how that is changing in the legislation. The way I read it, it has a slightly different definition now. Am I reading that wrong? Could someone take us through the changes that are being made to that?

**Mr Hatch:** Effectively it was turning 'unable to participate in a program of support' into what is versus what is not a program of support. Is that what it was?

**Senator SIEWERT:** In the previous definition there was the 'continuing inability to work', which has then had—

**Mr Hatch:** Independently of a program of support?

**Senator SIEWERT:** Yes, independent of a program of support. Then it had the definition of a 'program of support'. Under the bill, the person has actively participated in a program of support within the meaning of the definition 3(c). Can you just explain what that is about?

**Mr Hatch:** The current definition for DSP is that we take account of other programs and whether or not they could help you get back to work and whether or not you could work 15 or more hours with that assistance, but we exclude ongoing support through what was the Disability Employment Network but now is Employment Support

Services—it is part of DES. So people requiring high or moderate ongoing support in the workplace to be able to work—

**Senator SIEWERT:** To be able to work in the workplace?

**Mr Hatch:** We do not say that is work, for DSP purposes, because without that support that person would not be able to maintain that work.

**Senator SIEWERT:** So there are, in fact, two programs of support?

**Mr Hatch:** A program of support includes all of the different programs. It could be the two types of DES, it could be Job Services Australia or it could be a similar service funded through a state or territory. We are including things like workers compensation, return to work programs and other types of insurance things.

**Senator SIEWERT:** So you are talking about things that get you into employment.

**Mr Hatch:** Yes. They are all programs of support but 'independent' means they are not there with you forever more; they are just working with you and then put you into a job.

**Senator SIEWERT:** So if you have the capacity for 15 hours you are supported into employment for that, but without ongoing need for support.

**Mr Hatch:** That is right. There could be some post-placement support for six months, say, but not for two, three or five years.

**Senator SIEWERT:** And that is just defining that a bit more clearly now.

**Mr Hatch:** That is right.

**CHAIR:** Do you have a list of what constitutes 'approved support', because you listed a few there?

**Mr Hatch:** Programs of support?

**CHAIR:** Yes. Is there a defined list of those?

**Mr Hatch:** We are still drafting and developing it. Because it will be in the instrument we want to make sure that we have actually listed all of those programs that look very much like a Commonwealth-funded employment service. We want to make sure that we work out which are the ones that provide those elements of support, and tailoring it to the person's disability, versus the more mainstream.

**CHAIR:** But there will be a list of the instruments?

**Mr Hatch:** There certainly will be.

**CHAIR:** So people will be clear.

**Mr Hatch:** Yes.

**Senator BOYCE:** Sorry—versus 'the more mainstream' what?

**Mr Hatch:** Employment services. Part of what we are trying to do is make sure that it is not just 'I have registered for a pop-up message on a job website, and that was my program of support' versus somebody who was working with the person, providing vocational counselling, looking at training opportunities and programs for them, and looking at transferrable skills—more a program of assistance than just straight job seeking.

**Senator BOYCE:** That will include retraining opportunities?

**Mr Hatch:** Yes.

**Senator BOYCE:** Re-education opportunities?

**Mr Hatch:** Yes.

**Senator BOYCE:** I have got a couple of questions in that area.

**Senator SIEWERT:** In terms of employment support?

**Senator BOYCE:** Yes. I think it was NDS who raised the idea that, if you did not have evidence of having participated and needed to go and participate and you had applied for DSP, you would be told, 'No. You don't have the evidence, so go and undertake this course.' There was in fact an incentive for people who were hoping to go onto the DSP to perform as poorly as they possibly could in those programs or be there extremely reluctantly, only going through the motions, and this could cause management issues for NDS services. Could I have a response?

**Ms Buffinton:** The Disability Employment Services were established to be a positive support. A whole range of people come into Disability Employment Services with a whole range of motivations. I have only seen a couple of the submissions, but all of the submissions, and the consumer groups, are quite positive about the notion of people with disability having the opportunity of employment.

**Senator BOYCE:** We are aware of that, but they also have some concerns about how it is going to work in practice. That is what I am asking my question about.

**Ms Buffinton:** This is also part of working with FaHCSIA. Part of this is about proving that somebody has engaged, if you like, positively—has truly engaged in an effective manner versus just sitting out a period. It is fair to say that, when people come into Disability Employment Services, and NDS is one of the peak bodies that represent the employment services, they engage, get retraining, work on their mental state and their positiveness, and people surprise themselves. That is why, under the new Disability Employment Services, we have had not only an increase in those engaging in the new Disability Employment Services since 1 March 2010 but, on top of that, we have made the requirement for employment outcomes, if you like, more taxing for the provider to get. They have risen to that and we have had a 50 per cent increase in, for example, 13-week outcomes.

So, participating, working through, supporting, having an individual employment pathway plan and case managing an individual is often what this is fundamentally about—how we get people in and explaining what the opportunity is. If somebody just wants to sit for 18 months and do nothing, not engage, I think it is fair to say to my FaHCSIA colleagues—because this is some of the stuff that is now being finalised—that that is not proving that one is effectively engaged, as opposed to somebody who has really gone out of their way and has taken up all of the opportunities. It is due to their condition, but they have really made quite an effort. A range of people do come out of our employment systems and have not effectively engaged with ongoing employment. That said, we have also got many examples of people with conditions that would have made most people think they could not work in open employment but who have been holding down jobs for five, 10 or 20 years. Each year, as we change the attitudes of those that are participating in the employment services and of employers, we are pushing out the frontier of what constitutes those with disability working in open and sustainable employment.

**Senator BOYCE:** So how long do you have to engage before you can get the disability support pension if you have been unsuccessful in the first time and then fail it, as you mentioned?

**Ms Rose:** While a program of support may generally be up to 18 months duration of active participation, there are exceptions that will need to be considered. For example, if a person has finished a program but it was shorter than 18 months, that may be sufficient. Or, as was mentioned before, if due to medical reasons a person could no longer complete the program and, while in the program, they were making genuine efforts to build capacity and were complying with the program but it was clear that the program would not be able to raise them above the DSP, then a person is able to make another claim for DSP. So it is not—

**Senator BOYCE:** Who does it have to be clear to?

**Ms Rose:** To the employment service provider. They would have to work with their employment service provider, who would be able to determine whether or not activities were going to assist this person.

**Senator BOYCE:** The person themselves would have to make that determination?

**Ms Rose:** No, sorry, the assessor would be able to work with the person and it would become clear whether or not they were able to build their capacity.

**Senator BOYCE:** So is 18 months the maximum length of time that you have to try before you can get disability support pension, or is this completely open ended?

**Ms Rose:** The longest programs probably do go for 18 months, so that would probably be the maximum duration.

**Senator SIEWERT:** Probably be? How do you mean?

**Ms Rose:** As things stand at the moment, that is the current length of the disability—

**Senator BOYCE:** Should that be legislated? There is no limit in here about how long you can be expected to try.

**Ms Rose:** These things will be in the disallowable instrument. Some of these issues will be—

**Senator BOYCE:** Which will become available when?

**Ms Rose:** It is not finally completed yet.

**Senator BOYCE:** That is what I thought you were going to tell me.

**Senator SIEWERT:** You are saying 'probably' and that it will be in the instrument. Is it the intention that, once you have been through that process and you have not been able to find employment or successfully engage, you would then be able to apply for DSP, or would there be a process where you would be required to gather more evidence?

**Mr Hatch:** Certainly, you could apply for DSP and 18 months in a service and the full program would be a good indicator about what your work capacity was. It does not necessarily follow that you would automatically get DSP, of course.

**Senator SIEWERT:** No.

**Mr Hatch:** You may be able to increase your work capacity but you are actually just unemployed, not a person who cannot work because of a disability. That is the point at which the person has been through and participated in a full program. The service provider has tried everything with the person and has been unable to place them.

**Senator SIEWERT:** In terms of the formal process, then, you said there may be some exceptions—the medical reasons, the genuine efforts—but they are still not able to engage with the process. What is the process for the provider or the assessor? You used the term 'assessor'. I am not trying to be pedantic here—I am trying to understand whether you meant another assessor or whether you meant the provider.

**Ms Rose:** If the provider completed, say, an exit report for the person saying, 'We've discovered such and such.' Let's use an example of an undiagnosed medical condition. They could complete an exit report for the individual for that—

**Senator BOYCE:** What is the assessor's qualification to know about an undiagnosed medical condition?

**Ms Rose:** No, this is the employment service provider, and then that report would be used by the job capacity assessor as evidence that could go to whether or not they would meet the continuing inability to work test.

**Senator BOYCE:** But how does an employment service provider have the ability to diagnose a hitherto undiagnosed medical condition?

**Ms Rose:** That was an example. For example, for someone who is not aware that they have a mental illness, and it becomes apparent that perhaps they do, the provider could say, 'We are unable because of certain behaviours to assist this person,' and they might exit them from the program.

**Senator BOYCE:** So it would be seen as a behaviour management issue rather than anything else within the service?

**Mr Hatch:** I would not say it is behaviour management but more capacity to participate and benefit. If they put someone in a work trial as part of the service, for instance, and the person went there because they had a physical impairment but was having trouble remembering the tasks, the employment service provide could talk to the person about whether or not there had been any other incidents. Then the person, as part of being in the program, might tell the provider that they have another condition. That would be evidence that they were unable to benefit from the program.

**Senator BOYCE:** On this same topic, the Mental Health Council was concerned about what happened with people with episodic illnesses—mental illnesses, in the main. They might present in such a way that they would go into a program but, during the program, it would become obvious that they could not participate. What happens then?

**Mr Hartland:** They are able to lodge another application for DSP with additional evidence.

**Senator BOYCE:** And if they are better by the time that application gets assessed?

**Mr Hartland:** But they will have the evidence then, won't they?

**Ms Buffinton:** Under Disability Employment Services there are a range of permissible breaks. That is to take into account a range of disabilities, including some episodic disabilities. When I talk about a 13-week outcome, it may actually be over a period of, for example, 17 weeks. There is a four-week permissible break. I do not mean rec leave or sick leave. The Disability Employment Services are set up to take into account a range of people with either a primary issue of mental illness or a secondary issue, given their other disability. Similarly, when you go for a 26-week outcome, that is an additional four weeks.

**Senator BOYCE:** So what you mean is you have 17 weeks to do your 13 weeks?

**Ms Buffinton:** Yes. When we looked at that in order to set that four weeks, I would not want to be quoted exactly on the number but it is a very small number that go beyond the four weeks of permissible breaks. We looked at the whole range of disabilities presented and it was actually a very small percentage where a permissible break might not be helpful to somebody. So it does try to take into account the nature of the clients.

**Senator SIEWERT:** I wanted to follow up some questions there. I also want to go back to the 18-month process in a minute. But the other point that was raised by the Mental Health Council goes back to not having the 20 points in one table. It is about having multiple co-morbidities and it adding up to more than 20 in various



tables. Even though they have 20 points across a number of tables they could have complex issues and cumulative illnesses. How would that process be handled?

**Mr Hartland:** They would, under this measure, need to provide evidence that they could not be assisted back to work, so we would get into the things we were just discussing, about what a program of support would be. But I think the thing to say about this, also, is that for many mental health conditions continuing access to engagement with the labour market in employment and activity is a really important part of addressing mental illness. You would hope that this measure would actually keep people closer to the labour market where that was possible. I would have thought that one of the groups that would benefit from being kept close to the labour market would be people with a mental illness.

**Ms Rose:** And, currently, a person could have 20 points on the impairment tables through a combination but they still have to pass that other test which is the continuing inability to work. That is the case at the moment, it is just that there is an additional step here in terms of evidence.

**Senator SIEWERT:** Another step, at least.

**Ms Rose:** At least?

**Senator SIEWERT:** Not at least, sorry—potentially up to, or more, because you have not said that people up to 18 months are not going to be made to continue to go through this process.

**Mr Hartland:** No, this process is not as simple as apply for DSP, go away again and then 18 months later come back and get DSP. If there has been no attempt to engage in a program of support, then the person would not have evidence that they could not be assisted.

**Senator SIEWERT:** So, if what you are saying is if I have got a complex disability across various tables and I have not been able to engage properly, I am somehow—

**Mr Hartland:** If becomes clear that that is caused by your disability and that means that you cannot benefit from a program of support, then you would have the evidence that you would be able to use to establish a claim for DSP, yes.

**Senator SIEWERT:** Yes, evidence of failure as we were talking about earlier.

**Mr Hartland:** I do not think we would describe it as evidence of failure because, as I said at the start, what we are looking for with this measure is for people, where it is not clear that a program of support will assist them, to have a positive go at one of the extensive programs of support that are available to see if they can get back into work, which would be a better outcome for them.

**Senator BOYCE:** I am still unclear that in the explanatory memorandum and I think it is also a line that the minister used in the second reading speech, it says:

This new requirement will not apply to claimants for disability support pension who have a severe impairment, such as those who are clearly unable to work.

So the only way that you can prove that you are clearly unable to work is to fail a participation program?

**Ms Rose:** No, the 20 points on one table is the way that 'severe' is being measured in this case.

**Mr Hartland:** There are actually a couple of groups excluded in a similar manner. So the 'severe' one was one that we needed to put into the legislation, but if you have already been through an employment service and it has not assisted you, then you will not be asked to go again, as we said. If your application is on the basis of one of the manifest conditions in DSP, again we take those conditions as being evidence in and of themselves that you are not able to work on a continuing basis for more than 15 hours a week. Again, this would not apply to that group. As I said, the legislation adds a third group that would not be affected, which is those who have 20 points on one table. The statement about being clearly unable to work is wider than just 'severe'. There are some other protections built into this.

**Senator BOYCE:** Currently as I understand it you go, though not automatically, from child disability allowance to disability support pension at 16. What evidence are people who are on a child disability allowance and are due to move to the disability support pension going to need to be able to do so? A lot of those people would still be school students.

**Mr Hatch:** So whether or not they would go through this measure?

**Senator BOYCE:** You have up until recently needed to re-prove your disability to move from child disability allowance to disability support pension.

**Mr Hatch:** Yes.

**Senator BOYCE:** Most of these people are still school students. What do they have to do to move? What will change for them?

**Mr Hatch:** Very little. We would expect most of those people would be manifest grants for DSP.

**Senator BOYCE:** But they are not mentioned in here?

**Mr Hatch:** Well, they would be 20 points in one table if they were assessed against a table.

**Senator BOYCE:** People who receive the child disability allowance are 20 points on one table, are they?

**Mr Hatch:** Not necessarily.

**Ms Rose:** A large cohort of the 16-year-olds would be people with intellectual disability who would fall into the manifest category.

**Senator BOYCE:** I am just concerned about whether there are people who would not fall into the relevant categories. Could you perhaps take that on notice?

**Ms Rose:** Yes, we will.

**Mr Hartland:** We think it would be very small if there are any, but we will double check.

**Senator BOYCE:** Yes, but 'very small' is still an issue and most of the families have got enough to hassle about without having new hassles.

**Senator SIEWERT:** Can I go back to this issue of severe impairment? I may be misreading the explanatory memorandum. Severe impairment is where you have got 20 points on the one table.

**Ms Rose:** Yes.

**Senator SIEWERT:** Correct. As I said, I may be reading this wrong—it is on page 9 of the explanatory memorandum—where we say:

A person with a severe impairment will not be required to have actively participated in a program of support.

And we have clarified what a 'program of support' is:

However, the person will have to satisfy the Secretary that, as a result of the person's impairment, the person is prevented from undertaking any work and/or a training activity within the next two years.

Is that essentially what is already in the act? That does not change? So you just have to be able to show that you cannot do the—

**Ms Rose:** Yes. There is a continuing inability to work.

**Senator SIEWERT:** But everybody else then has to show evidence, et cetera, and we have been through that. That is correct?

**Mr Hatch:** Unless they have already been through an employment service and either finished a program, or been unable to finish a program because of their impairment or had done something similar through workers compensation or some other insurance scheme.

**Senator SIEWERT:** I want to ask about taper rates.

**Senator BOYCE:** I want to ask a bit about the impairment tables and the timing and so forth.

**Senator SIEWERT:** Yes, let's keep going on that.

**Senator BOYCE:** Initially this was designed that the impairment tables and the new requirements would come into play on 1 January 2012. That is now not going to happen. Why is that not going to happen?

**Mr Hartland:** Because the government has decided to bring this measure forward by—

**Senator BOYCE:** But not the tables?

**Mr Hartland:** No, not the tables.

**Senator BOYCE:** When will the tables be complete? I understand that the draft tables are out there and there are meetings and things, but when will the new impairment tables be available?

**Mr Hartland:** We do not yet have a final report from the committee, but it is very close. At that point it will be provided to the minister, and it will be in the hands of the government as to when they would like to release the committee's report and the draft tables. They are mindful of the need to consult on the tables, so we would be expecting to be asked to talk to groups and for them to be released quite soon, but it is in the government's hands as to when the tables and the report are released.

**Senator BOYCE:** How then does this system operate between September 2011 and, presumably, January 2012?

**Mr Hartland:** There are existing impairment tables, so the system will operate in tandem with the tables that are used at the moment.

**Senator BOYCE:** What will happen to people who have been assessed under the current impairment tables when the new tables come in?

**Mr Hartland:** In the first instance, nothing.

**Senator BOYCE:** Would people have the right to appeal their assessment based on changes to the tables?

**Mr Hartland:** This is presumably someone who has been rejected on the tables?

**Senator BOYCE:** Yes.

**Mr Hartland:** So it would not be someone who has got DSP and wants to appeal so they get off it?

**Senator BOYCE:** No. There are not too many of those around, I do not think.

**Mr Hartland:** We can live in hope in the department.

**Senator BOYCE:** Ms Buffinton is in charge of making people think that, aren't you, Ms Buffinton!

**Mr Hartland:** I think if you were rejected for DSP under the old impairment tables and then were reflecting on your situation when the new impairment tables came into being, it would not really be a matter for an appeal; you would reapply. If you appealed, I think you would be appealing under the old tables, because you would be appealing as to whether the decision was right with the legislation available at that time.

**Senator BOYCE:** We are at somewhat of a disadvantage here because we have no idea how the new impairment tables compare to the existing impairment tables. It would seem to me that we may be talking about a matter of at least natural justice and potentially morality if the new tables were such that people were rejected now but would have succeeded next year.

**Mr Hartland:** I do not think at law that that would quite be the issue. The question would be whether the decision was made appropriately under the law that existed at the time.

**Senator BOYCE:** I have one last query about the saving in this year's budget. The cost in 2010-11 is going to be \$1.4 million. Could you tell me what is being saved by moving this forward to September compared to doing it in January?

**Ms Rose:** An additional \$49.7 million.

**Senator BOYCE:** In four months?

**Ms Rose:** That is over the forward estimates.

**Senator SIEWERT:** Because there are people that do not go on DSP.

**Ms Rose:** Yes.

**Mr Hartland:** They do not go on DSP over the forward estimates.

**Senator SIEWERT:** That is what I mean.

**Senator BOYCE:** That is over the forward estimates. But how much extra is being saved by starting in September rather than starting in January?

**Ms Rose:** That is the \$49.7 million.

**Senator BOYCE:** It is?

**Senator SIEWERT:** How many human beings does that equate to?

**Mr Hartland:** Around 2,600 additional people rejected in 2011-12.

**Senator BOYCE:** What about for the period between September 2011 and 31 December 2011?

**Mr Hartland:** Those are the people who are expected to remain off the payment. Just under 6,000 people will have their claims rejected and be asked to test their capacity in a program of support.

**Senator BOYCE:** And that is between September and December?

**Mr Hartland:** Yes.

**Senator SIEWERT:** Sorry, I have misunderstood you previously. So 6,000 are rejected between September and December or the beginning of January?

**Mr Hartland:** September and January.

**Senator SIEWERT:** What about the 2,600?

**Mr Hartland:** We will come to that. They are the people who stay off income support for the forward estimates.

**Mr Hatch:** Over the financial year.

**Senator SIEWERT:** Sorry, I am totally confused now.

**Mr Hatch:** Sorry, it is about 6,000 people in total over that period gross who are rejected, but within that financial year there will be a flow of people back onto DSP. There will be people who had gone to a service, worked with them and then come back with the evidence—

**Senator SIEWERT:** So the 2,600 is the net?

**Mr Hatch:** Yes.

**Senator SIEWERT:** So 6,000 will be rejected over that period, of which some will come back on.

**Senator BOYCE:** Then they will put 3,400 of them back on.

**Senator SIEWERT:** Yes, but we have saved while they have been proving that they are eligible.

**Senator BOYCE:** While they fail work?

**Senator SIEWERT:** Yes. We have still achieved a saving.

**Senator BOYCE:** Good. So we are expecting the majority of those people—

**Ms Buffinton:** The majority of those people will be going into the employment services.

**Senator BOYCE:** But if 6,000 of them are rejected and only 2,600 remain rejected, that will be 3,400 who qualified after they had gone through the hoops, is it not?

**Senator SIEWERT:** Yes, but we will have saved 18 months worth of through the \$128 a week difference.

**Mr Hatch:** Most of those people will not have done the full 18 months. There will be some at the start and then some later on during the program and then some will have done the full 18 months.

**Senator SIEWERT:** But for each of those weeks we saved \$128 per person, which is the bottom line.

**Mr Hartland:** I think there are a couple of things to say about this. One is that it illustrates that there are safeguards in the system and that we are anticipating that people will not be forced—come what may—to serve a period of time because we are estimating that some will come back onto DSP. The way we cost measures is also quite conservative around employment outcomes and so we would be hopeful that more than 2,600 would remain off payment and that a group of those getting into work, but the costing encompasses a fairly conservative estimate of the employment effects of this.

**Senator BOYCE:** But, nevertheless, costings have been engineered around more than 50 per cent of people ultimately receiving disability support pension after being rejected.

**Mr Hartland:** Yes, that is right.

**Senator SIEWERT:** I want to ask about how you get into this process of applying for DSP. Take us through how it is going to happen now.

**Ms Rose:** You apply for DSP. If you have 20 points on—

**Senator SIEWERT:** Let us ignore the 20 points.

**Ms Rose:** So this is the people who have no evidence.

**Senator SIEWERT:** They have an assessment under the table, but they do not have 20 points in one table.

**Ms Rose:** If they do not have 20 points on one table the next part of qualification for DSP is meeting that continuing inability to work test. So that will be applied, but if it is a person who is caught in this measure, who does not have evidence that they cannot have their capacity built, they will be denied DSP, possibly granted another income support payment and then referred to an employment service.

**Senator SIEWERT:** If I have had my job capacity assessment, can I go to a DES?

**Ms Rose:** That may well be the employment service to which you are referred, yes.

**Senator SIEWERT:** Who makes that decision, Centrelink?

**Mr Hatch:** The job capacity assessor makes the recommendation about which is the most appropriate service based on the need for support—

**Ms Rose:** Individual circumstances.

**Senator SIEWERT:** Once they have had their job capacity assessment?

**Mr Hatch:** Yes.

**Ms Rose:** Yes.

**Senator SIEWERT:** So if they have not got their points, the job capacity assessor then says, 'We think the best service for you would be JSA or a DES.'

**Mr Hatch:** Yes. Just to step back a little bit, when a person applies for DSP they will go to Centrelink. Centrelink will say to the person, 'Can you give us a report from your doctor for the medical side? And by the way, do you have any information about past services that you have been through that you can provide to us so that when you go to the job capacity assessor they can look at your medical evidence and also at any evidence you have had on participation in programs of support.'

**Senator SIEWERT:** So if I have been on Newstart and I have done all my participation requirements there, the job capacity assessor could say, 'There is clearly evidence that you have not been able to work,' or, 'You have been through and you have not been able to sustain the work.' Could they then reassess you to go onto DSP?

**Mr Hatch:** We are still working with DEEWR on the exact arrangements of how the JCA will get access to the information about their participation while they have been with the employment service, but the expectation is that they will look at that evidence to help them come to a decision about how the person has been participating, what they have been doing while they have been there and how long they have been there for.

**Senator SIEWERT:** So you get referred and if you are a new person who is unemployed and you meet all the requirements for Newstart you will go onto Newstart while you go through your participation requirements with the JSA and/or DES?

**Mr Hatch:** Yes.

**Senator SIEWERT:** I have a couple of other questions about the consultation process you used to develop this measure. I understood from this morning's evidence that there had not been consultation with the DES's. I am wondering how confident you are that they will be able to get up to speed and implement this measure in September?

**Ms Rose:** It is really for Ms Buffinton, but I did participate on a DEEWR consultation of the various cities about how the measure was going to work, but perhaps Ms Buffinton would like to add something?

**Ms Buffinton:** That was after the budget, going through a range of CEOs for Job Services Australia and Disability Employment Services discussing the budget measures. But as far as the so-called 'bringing them up to speed' is concerned, first and foremost what we are asking the Disability Employment Services to do is exactly the job that they are currently contracted with the government to do, which is to take people having come through a job capacity assessment, where they will be assessed for a certain number of hours, into a certain Disability Employment Service. So there is no change. There will be a change of volume coming through the Disability Employment Services—whether or not we have got to work with FaHCSIA if there are any issues at the other end of what role they may play over and above their usual exiting and so forth—but the Disability Employment Services will perform their usual function of taking somebody, working with them on developing an individual employment pathway plan, developing what type of skill sets they need, what sort of support and training they need and looking to match for a potential employer—

**Senator SIEWERT:** Sorry, we have only got a very short time. I am going to be pinged and I have not got to taper rates yet. There are two things you said then that to me seem to mean that the so-called 'bringing them up to speed' requirement is a genuine question: the volume, and any new provisions that they may have to exit people and make decisions about when somebody is not being able to participate, because it has very significant outcomes for their capacity to get DSP. So I beg to differ in terms of whether DESs are in fact up to speed when a representative of one of the peak organisations said to us this morning that he does not think they are.

**Ms Buffinton:** At the moment, we have a demand driven system and the employment services have been expanding through the current period. We are looking into the future at the number that we believe are looking at joining. We currently have just under 150,000 workers through the Disability Employment Services. In the future, we are probably looking at somewhere between 7,000 to 10,000 more people per annum. There is an increase in the number going into that system, so at this stage we believe that the employment services have the capacity to expand. Certainly the role the Disability Employment Services will be playing on entry and in supporting that individual will be as per the current Disability Employment Services. The part that I still have to work through with FaHCSIA is the issue at the end of 18 months of service. That is the element that—

**Senator SIEWERT:** My understanding, and I have either misheard or misunderstood, is that there is also a potential role there for the providers. There are the issues that we discussed about what providers are required to do if there is a medical reason and someone is clearly not able to meet the requirements of the job or they are not

able to cope with program. We discussed, Ms Rose, that the providers could perhaps initiate an exit process. Have I misunderstood?

**Ms Rose:** No, and we will be clarifying some of these issues.

**Mr Hatch:** There are some informal processes already going on between employment services, helping people who they think really should be on a disability support pension because they are not able to work. They provide references or information for people. We will need a more formal process, obviously.

**Senator SIEWERT:** That is exactly what I am coming to. This is another area, surely, which the providers are going to have to take on in a more formal process.

**Ms Buffinton:** We will formalise that methodology. I think we have a good history of how things have changed through Disability Employment Services and the former Job Services Australia and so forth. As things change, if we are required to have live meets through IT or to go out and consult and run workshops, we will.

**Senator SIEWERT:** Thank you. There was also a comment made this morning that the funding for DES support has fallen from \$4,108 to \$3,621. Have I understood? Is that accurate?

**Ms Buffinton:** I am not exactly sure what numbers they are. First of all, under Disability Employment Services, there is both the disability management service and the employment support service. We shifted from the old disability employment network to the new disability employment support service, which is for the higher end need. Under the old system there was a four-level payment scale. We took level 2 and level 4 and made them, if you like, what we now term funding level 1 and 2. On average the new system is paying at a higher level than the old disability employment network.

**Senator SIEWERT:** What is it per person at both scales?

**Ms Buffinton:** I think it is easiest to give you a listing. There are service fees and outcome fees, and I think the easiest thing for us is to give you a table with that.

**Senator SIEWERT:** That would be appreciated. Regarding the taper rates, can you give me the new one that will apply under the new budget measures?

**Mr Hartland:** The relevant taper rates in this measure have not changed. It is set out in this book. Page 29 has the income test for pensions. There are a number of different categories. You can look at singles and couples, combined or separated, but so we do not get too complex we will just consider singles. You are entitled to a full pension up until you earn \$146 a fortnight. After that point, your pension reduces by 50c in the dollar. The taper rate is 50 per cent.

**Senator SIEWERT:** That is what I am after. I want to know the different taper rates and the changes that were made.

**Mr Hartland:** The pension taper rate is 50c in the dollar after \$146 per fortnight.

**Senator SIEWERT:** Is that the pension?

**Mr Hartland:** The disability support pension. The Newstart taper rate is 50c in the dollar after \$62 per fortnight and then 60c in the dollar after \$250 per fortnight.

**Senator SIEWERT:** Has the new taper rate for single parents on Newstart has changed as well?

**Mr Hartland:** Yes, it has. That is not within my remit but that has changed. There is a measure that changes that.

**Senator SIEWERT:** I want to confirm that the new taper rate for single parents on Newstart is in fact different and has now improved as compared to someone with a partial capacity to work on Newstart.

**Ms Buffinton:** I will talk with my colleagues who look after income support on that one.

**Senator SIEWERT:** That would be appreciated.

**Senator BOYCE:** There has been evidence here and in other places around the sort of support that people with disabilities often need to work. For example, the fact that some people cannot get up and get themselves dressed or have breakfast without someone supporting them. There does not seem to be anything here that recognises the level of support that may be needed so that you can either participate in a program of support or participate in work. Could you comment on that, please?

**Mr Hartland:** There are a number of services that provide those types of support, primarily through state systems.

**Senator BOYCE:** That is right, but there are not as many services as there are people who need the services. Given that you are uncapping the disability services, where is the match going to happen if people are going to be required to demonstrate participation to stay in the system?

**Mr Hartland:** As you know, those types of support are being considered through the Productivity Commission inquiry.

**Senator BOYCE:** Which is due to start in 2014, yes.

**Mr Hartland:** I would be very surprised if someone who needed those types of support did not fall into one of the groups that was excluded. I think it would be very hard to imagine a case of someone—

**Senator BOYCE:** We have had evidence to this committee from a gentleman with cerebral palsy who works as a university academic but cannot put himself to bed, cannot dress himself and cannot get his own breakfast. So he is an example of someone who quite happily works fully in the mainstream system but cannot function without a care package.

**Mr Hartland:** I suspect he would be pretty certain of getting 20 points under one of the tables.

**Senator BOYCE:** But does that not demonstrate what is wrong with the tables, then, if someone who is currently fully employed does not need to be, or is just going from doing so?

**Mr Hartland:** I think that is a conversation for when we have the impairment tables in front of us, because it does raise issues about the basis of the tables and how you assess people with and without aids and equipment and support.

**Senator BOYCE:** I will watch with interest.

**CHAIR:** This is a very tight time line with this particular piece of legislation, as you know, but there could be a couple of questions that Senator Siewert, or Senator Boyce or other senators may have tomorrow. If we do we will get in contact with you straight away. There could be clarification questions.

**Senator SIEWERT:** There is one more on the line of questions we have been through. If you have done your 18 months and you have your exit report from your DES or your JSA, do you go through a whole new assessment or do they take it from where you have already had your job assessment?

**Ms Rose:** Yes.

**Mr Hartland:** Yes.

**Senator SIEWERT:** So you basically go through a second assessment.

**Ms Rose:** Yes.

**CHAIR:** Thank you for your evidence.

**Committee adjourned at 21:42**